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A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

Rules and Regulations

Federal Register
Vol. 65, No. 144
Wednesday, July 26, 2000

SMALL BUSINESS ADMINISTRATION

13 CFR Parts 121 and 125

Government Contracting Programs

AGENCY: Small Business Administration.

ACTION: Final rule.

SUMMARY: The Small Business Administration (SBA) is finalizing its regulations to address contract bundling due to changes set forth in the Small Business Reauthorization Act of 1997. This rule implements the statutory amendments that recognize that the consolidation of contract requirements may be necessary and justified, in some cases. It also implements the statutory requirement that each Federal agency, to the maximum extent practicable, take steps to avoid unnecessary and unjustified bundling of contract requirements that precludes small business participation as prime contractors as well as to eliminate obstacles to small business participation as prime contractors. In addition, this rule restates SBA's current authority to appeal to the head of a procuring agency decisions made by the agency that SBA believes to adversely affect small businesses.

DATES: This rule is effective July 26, 2000.

FOR FURTHER INFORMATION CONTACT: Anthony Robinson, Office of Government Contracting, (202) 205–6465.

SUPPLEMENTARY INFORMATION: Section 15(a) of the Small Business Act, 15 U.S.C. 644(a), authorizes SBA to appeal to the head of a procuring agency certain decisions made by the agency that SBA believes adversely affects small businesses, including proposed procurements that include ''goods or services currently being performed by a small business'' and which are in a ''quantity or estimated dollar value the magnitude of which renders small business prime contract participation unlikely.'' Section 413(b)(1) of Public Law 105–135 added an appeal right to section 15(a) of the Small Business Act for ''an unnecessary or unjustified bundling of contract requirements.'' It left intact, however, SBA's current appeal rights. In this regard, the Joint Explanatory Statement of the bundling provisions contained in Public Law 105–135 as set forth in the Congressional Record specifically provided that ''[n]othing in [the bundling amendments] is intended to amend or change in any way the existing obligations imposed on a procuring activity or the authority granted to the Small Business Administration under section 15(a) of the Small Business Act.'' 143 Cong. Rec. S11522, S11526 (daily ed. Oct. 31, 1997).

On October 25, 1999, SBA published an interim rule with request for comments in the **Federal Register** requesting public comments on implementation of Sections 411–417 of the Small Business Reauthorization Act of 1997 (Public Law 105–135, 111 Stat. 2617). *See* 64 FR 57366, October 25, 1999. The statutory amendments recognize that the consolidation of contract requirements may be necessary and justified, in some cases. The rule requires that each Federal agency, to the maximum extent practicable, take steps to avoid unnecessary and unjustified bundling of contract requirements that preclude small business participation as prime contractors. The rule also requires each agency to eliminate obstacles to small business participation as prime contractors.

The comment period for the interim rule (64 FR 57366) closed on December 27, 1999. Consistent with the statutory amendments, the interim rule defined ''bundling,'' identified the circumstances under which such ''bundling'' may be necessary and justified, and permitted SBA to appeal bundling actions that it believes to be unnecessary and unjustified to the head of the procuring agency. The rule also restated SBA's current authority to appeal to the head of an agency other procurement decisions made by procuring activities that SBA believes will adversely affect small business. SBA received 19 comments in response to the interim rule. The comments are comprised of three from Government agencies, four from trade associations, ten from small businesses, and two from members of Congress.

Most of the comments, particularly those from small business, did not offer specific changes to the rule, but rather strongly endorsed the government taking action against contract bundling. Since these comments offered no specific changes, SBA responds by noting the strong opposition to contract bundling by the small business community.

The four comments from trade associations focused on the impact of bundling requirements on the architect and engineering industry. Specifically, these comments were concerned with the consolidation of architect and engineering services with requirements from other industries. The bundling statute and SBA's rule permit various contract requirements to be consolidated provided that the consolidation results in substantial benefits. The statute does not limit the scope and diversity of consolidated contracts. As long as there are measurably substantial benefits, a procuring agency is authorized to consolidate or bundle contract requirements. Thus, this rule also does not limit the scope and diversity of consolidated contracts.

When a procuring activity intends to proceed with a ''bundled'' requirement, it must document that the bundling is necessary and justified. If it cannot do so, the procuring activity cannot go forward with the intended consolidation. In order for bundling to be necessary and justified, the consolidation must achieve ''measurably substantial benefits.'' In finalizing this rule, SBA again examined the interim rule's two-tier approach to determining what constitutes measurably substantial benefits. SBA continues to believe that the two-tier approach represents a reasonable application of determining what ''measurably substantial benefits'' means. Pursuant to the statutory language, benefits must be ''substantial.'' SBA believes that benefits equivalent to 10% of the contract value (including options) is a substantial benefit relative to the amount of the contract where the contract value is $75 million or less. Similarly, SBA believes that benefits equivalent to at least $7.5

million or 5% of the contract value (including options) is a substantial benefit in absolute dollars where the contract value exceeds $75 million. SBA notes that most bundled requirements that SBA has reviewed over the past four years have had a contract value (including options) that was less than $75 million. Thus, most bundled contracts will be subject to a 10% savings test. The remainder of the contracts will be subject to a minimum absolute savings of $7.5 million.

This final rule clarifies the two-tier approach to achieve this result of a minimum savings for contracts having a value (including options) between $75 million and $150 million. The interim rule required agencies to achieve a benefit equivalent to at least 5% of the contract value (including options) for any contract having a value exceeding $75 million, but without specifying a minimum savings of $7.5 million. Under the interim rule, for contracts having a value between $75 million and $150 million, the required benefits could have ranged from $3.25 million to $7.5 million. Thus, contracts having a value between $75 million and $150 million required less of a benefit than contracts having a value between $32.5 million and $75 million. For example, an agency needed to demonstrate a $6 million benefit for a contract having a $60 million value, while it had to show only a $4 million benefit for a contract having a value of $80 million. SBA believes that this result would have been illogical. As such, SBA has amended this provision to require that an agency must show a benefit of 5% or $7.5 million, whichever is greater, for any bundled contract having a value that exceeds $75 million. Contracts awarded in reliance on the interim rule which met the 5% benefits test but would not satisfy this minimum savings test will be unaffected by this final rule.

One commenter suggested that the ''critical to the agency's mission success'' exemption (125.2(d)(3)(iii)(B)) could be subject to abuse. SBA does not agree. SBA believes that because these exemptions are made at the agency's highest procurement levels, abuses of this authority are unlikely.

The interim final rule included a provision addressing the application of the regulation to procurements that are awarded in accordance with a cost comparison conducted under OMB Circular A–76 (''Performance of Commercial Functions''). We did not receive any comments on this provision. The final rule retains the provision, with clarifying revisions.

Circular A–76 establishes a cost-comparison process for evaluating whether a commercial activity that is conducted by a Federal agency should be performed in-house or by contract. This process compares the estimated cost of in-house performance by the ''Most Efficient Organization'' (MEO) with the cost of contract performance as determined by offers that are submitted in response to an A–76 solicitation. Under the Circular, the simple fact that contract performance is found to be *less costly* than in-house performance by the MEO is not sufficient to justify a conversion from in-house to contract performance. Instead, an activity will not be converted to contract performance (i.e., it will be retained in-house) unless the savings will exceed 10 percent or $10 million over the performance period, whichever is less.

Under the A–76 cost-comparison process, the required MEO (which is also required by statute at 10 U.S.C. 2461 for the Department of Defense) may include a mix of Federal employees and contract support. In other words, the scope of an A–76 cost comparison, the solicitation, and the in-house MEO may consist of a workload performed by Federal employees and one or more existing contractors. Thus, it is possible under an A–76 cost comparison process that activities that have been performed by Federal employees (along with activities performed under two or more small business contracts) will be converted to performance under one contract awarded to a large business. In such cases, the methodology of the A–76 process will have ensured that the Federal Government will derive ''measurably substantial benefits'' from the conversion. This occurs in two ways. First, through the agency's development of a management plan and the in-house MEO (which concludes in the MEO's written ''certification''), significant and measurable savings and performance enhancements can be achieved even before competing with any private offeror. Second, through the cost comparison itself, measurable savings and performance enhancements are quantified, and a decision to convert requires substantial savings (10 percent or $10 million over the performance period, whichever is less).

SBA has added clarifying language to the rule so that it is clear that a bundling analysis is not required when an agency conducts a similar analysis under an A–76 study.

Compliance With Executive Orders 13132, 12988 and 12866, the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), and the Paperwork Reduction Act (44 U.S.C. Chapter 3501 et seq.)

The Office of Management and Budget reviewed this rule as a ''significant'' regulatory action under Executive Order 12866.

SBA has determined that this final rule may have a significant beneficial economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. SS 601–612. The rule can potentially apply to all small businesses that are performing or may want to perform on the prime contract opportunities of the Federal Government. While there is no precise estimate of the number of small entities or the extent of the economic impact, SBA believes that a significant number of small businesses would be affected. SBA has submitted a complete Final Regulatory Flexibility Analysis of this final rule to the Chief Counsel for Advocacy of the Small Business Administration. For a copy of this analysis, please contact Anthony Robinson at (202) 205–6465.

For the purpose of the Paperwork Reduction Act, 44 U.S.C. Ch. 35, SBA certifies that this rule would not impose new reporting or record keeping requirements.

For purposes of Executive Order 13132, SBA certifies that this rule does not have any federalism implications warranting the preparation of a Federalism Assessment.

For purposes of Executive Order 12978, SBA certifies that this rule is drafted, to the extent practicable, in accordance with the standards set forth in section 2 of this order.

List of Subjects

13 CFR Part 121

Administrative practice and procedure, Government procurement, Government property, Grant programs—business, Individuals with disabilities, Loan programs—business, Reporting and recordkeeping requirements, Small businesses.

13 CFR Part 125

Government contracts, Government procurement, Reporting and recordkeeping requirements, Small businesses, Technical assistance.

For the reasons stated in the preamble, SBA adopts the interim rule amending 13 CFR parts 121 and 125 which was published at 64 FR 57366 on October 25, 1999, as final with the following changes:

PART 121—SMALL BUSINESS SIZE REGULATIONS

1. The authority citation for 13 CFR part 121 continues to read as follows:

Authority: 15 U.S.C. 632(a), 634(b)(6), 637(a), 644(c), and 662(5); and Sec. 304, Pub. L. 103–403, 108 Stat. 4175, 4188.

2. In 121.103 currently in effect, revise paragraph (f)(3)(i).

§ 121.103 What is affiliation?

* * * * *

(f) * * *

(3) * * * (i) A joint venture or teaming arrangement of two or more business concerns may submit an offer as a small business for a Federal procurement without regard to affiliation under this paragraph (f) so long as each concern is small under the size standard corresponding to the SIC code assigned to the contract, provided:

(A) The procurement qualifies as a ''bundled'' requirement, at any dollar value, within the meaning of § 125.2(d)(1)(i) of this chapter; or

(B) The procurement is other than a ''bundled'' requirement within the meaning of § 125.2(d)(1)(i) of this chapter, and:

(*1*) For a procurement having a revenue-based size standard, the dollar value of the procurement, including options, exceeds half the size standard corresponding to the SIC code assigned to the contract; or

(*2*) For a procurement having an employee-based size standard, the dollar value of the procurement, including options, exceeds $10 million.

* * * * *

PART 125—GOVERNMENT CONTRACTING PROGRAMS

1. The authority citation for 13 CFR part 125 continues to read as follows:

Authority: 15 U.S.C. 634(b)(6), 637 and 644; 31 U.S.C. 9701, 9702.

2. In § 125.2, revise paragraphs (a), (b) and (d) to read as follows:

§ 125.2 Prime contracting assistance.

(a) *General.* Small business concerns must receive any award or contract, or any contract for the sale of Government property, that SBA and the procuring or disposal agency determine to be in the interest of:

(1) Maintaining or mobilizing the Nation's full productive capacity;

(2) War or national defense programs;

(3) Assuring that a fair proportion of the total purchases and contracts for property, services and construction for the Government in each industry category are placed with small business concerns; or

(4) Assuring that a fair proportion of the total sales of Government property is made to small business concerns.

(b) *PCR and procuring activity responsibilities.* (1) SBA Procurement Center Representatives (PCRs) are generally located at Federal agencies and buying activities which have major contracting programs. PCRs review all acquisitions not set-aside for small businesses to determine whether a set-aside is appropriate.

(2) A procuring activity must provide a copy of a proposed acquisition strategy (e.g., Department of Defense Form 2579, or equivalent) to the applicable PCR (or to the SBA Office of Government Contracting Area Office serving the area in which the buying activity is located if a PCR is not assigned to the procuring activity) at least 30 days prior to a solicitation's issuance whenever a proposed acquisition strategy:

(i) Includes in its description goods or services currently being performed by a small business and the magnitude of the quantity or estimated dollar value of the proposed procurement would render small business prime contract participation unlikely;

(ii) Seeks to package or consolidate discrete construction projects; or

(iii) Meets the definition of a bundled requirement as defined in paragraph (d)(1)(i) of this section.

(3) Whenever any of the circumstances identified in paragraph (b)(2) of this section exist, the procuring activity must also submit to the applicable PCR (or to the SBA Office of Government Contracting Area Office serving the area in which the buying activity is located if a PCR is not assigned to the procuring activity) a written statement explaining why:

(i) If the proposed acquisition strategy involves a bundled requirement, the procuring activity believes that the bundled requirement is necessary and justified under the analysis required by paragraph (d)(3)(iii) of this section; or

(ii) If the description of the requirement includes goods or services currently being performed by a small business and the magnitude of the quantity or estimated dollar value of the proposed procurement would render small business prime contract participation unlikely, or if a proposed procurement for construction seeks to package or consolidate discrete construction projects:

(A) The proposed acquisition cannot be divided into reasonably small lots to permit offers on quantities less than the total requirement;

(B) Delivery schedules cannot be established on a basis that will encourage small business participation;

(C) The proposed acquisition cannot be offered so as to make small business participation likely; or

(D) Construction cannot be procured as separate discrete projects.

(4) In conjunction with their duties to promote the set-aside of procurements for small business, PCRs will identify small businesses that are capable of performing particular requirements, including teams of small business concerns for larger or bundled requirements (see § 121.103(f)(3) of this chapter).

(5)(i) If a PCR believes that a proposed procurement will render small business prime contract participation unlikely, or if a PCR does not believe a bundled requirement to be necessary and justified, the PCR shall recommend to the procurement activity alternative procurement methods which would increase small business prime contract participation. Such alternatives may include:

(A) Breaking up the procurement into smaller discrete procurements;

(B) Breaking out one or more discrete components, for which a small business set-aside may be appropriate; and

(C) Reserving one or more awards for small companies when issuing multiple awards under task order contracts.

(ii) Where bundling is necessary and justified, the PCR will work with the procuring activity to tailor a strategy that preserves small business prime contract participation to the maximum extent practicable.

(iii) The PCR will also work to ensure that small business participation is maximized through subcontracting opportunities. This may include:

(A) Recommending that the solicitation and resultant contract specifically state the small business subcontracting goals which are expected of the contractor awardee; and

(B) Recommending that the small business subcontracting goals be based on total contract dollars instead of subcontract dollars.

(6) In cases where there is disagreement between a PCR and the contracting officer over the suitability of a particular acquisition for a small business set-aside, whether or not the acquisition is a bundled or substantially bundled requirement within the meaning of paragraph (d) of this section, the PCR may initiate an appeal to the head of the contracting activity. If the head of the contracting activity agrees with the contracting officer, SBA may appeal the matter to the secretary of the department or head of the agency. The

time limits for such appeals are set forth in 19.505 of the Federal Acquisition Regulation (FAR) (48 CFR 19.505).

(7) PCRs will work with a procuring activity's Small Business Specialist (SBS) to identify proposed solicitations that involve bundling, and with the agency acquisition officials to revise the acquisition strategies for such proposed solicitations, where appropriate, to increase the probability of participation by small businesses, including small business contract teams, as prime contractors. If small business participation as prime contractors appears unlikely, the SBS and PCR will facilitate small business participation as subcontractors or suppliers.

* * * * *

(d) *Contract bundling*—(1) *Definitions*—(i) *Bundled requirement or bundling.* The term *bundled requirement or bundling* refers to the consolidation of two or more procurement requirements for goods or services previously provided or performed under separate smaller contracts into a solicitation of offers for a single contract that is likely to be unsuitable for award to a small business concern due to:

(A) The diversity, size, or specialized nature of the elements of the performance specified;

(B) The aggregate dollar value of the anticipated award;

(C) The geographical dispersion of the contract performance sites; or

(D) Any combination of the factors described in paragraphs (d)(1)(i) (A), (B), and (C) of this section.

(ii) *Separate smaller contract.* A separate smaller contract is a contract that has previously been performed by one or more small business concerns or was suitable for award to one or more small business concerns.

(iii) *Substantial bundling.* Substantial bundling is any contract consolidation, which results in an award whose average annual value is $10 million or more.

(2) *Requirement to foster small business participation.* The Small Business Act requires each Federal agency to foster the participation of small business concerns as prime contractors, subcontractors, and suppliers in the contracting opportunities of the Government. To comply with this requirement, agency acquisition planners must:

(i) Structure procurement requirements to facilitate competition by and among small business concerns, including small disadvantaged, 8(a) and women-owned business concerns; and

(ii) Avoid unnecessary and unjustified bundling of contract requirements that inhibits or precludes small business participation in procurements as prime contractors.

(3) *Requirement for market research.* In addition to the requirements of paragraph (b)(2) of this section and before proceeding with an acquisition strategy that could lead to a contract containing bundled or substantially bundled requirements, an agency must conduct market research to determine whether bundling of the requirements is necessary and justified. During the market research phase, the acquisition team should consult with the applicable PCR (or if a PCR is not assigned to the procuring activity, the SBA Office of Government Contracting Area Office serving the area in which the buying activity is located).

(4) *Requirement to notify current small business contractors of intent to bundle.* The procuring activity must notify each small business which is performing a contract that it intends to bundle that requirement with one or more other requirements at least 30 days prior to the issuance of the solicitation for the bundled or substantially bundled requirement. The procuring activity, at that time, should also provide to the small business the name, phone number and address of the applicable SBA PCR (or if a PCR is not assigned to the procuring activity, the SBA Office of Government Contracting Area Office serving the area in which the buying activity is located).

(5) *Determining requirements to be necessary and justified.* When the procuring activity intends to proceed with an acquisition involving bundled or substantially bundled procurement requirements, it must document the acquisition strategy to include a determination that the bundling is necessary and justified, when compared to the benefits that could be derived from meeting the agency's requirements through separate smaller contracts.

(i) The procuring activity may determine a consolidated requirement to be necessary and justified if, as compared to the benefits that it would derive from contracting to meet those requirements if not consolidated, it would derive measurably substantial benefits. The procuring activity must quantify the identified benefits and explain how their impact would be measurably substantial. The benefits may include cost savings and/or price reduction, quality improvements that will save time or improve or enhance performance or efficiency, reduction in acquisition cycle times, better terms and conditions, and any other benefits that individually, in combination, or in the aggregate would lead to:

(A) Benefits equivalent to 10 percent of the contract value (including options) where the contract value is $75 million or less; or

(B) Benefits equivalent to 5 percent of the contract value (including options) or $7.5 million, whichever is greater, where the contract value exceeds $75 million.

(ii) Notwithstanding paragraph (d)(5)(i) of this section, the Assistant Secretaries with responsibility for acquisition matters (Service Acquisition Executives) or the Under Secretary of Defense for Acquisition and Technology (for other Defense Agencies) in the Department of Defense and the Deputy Secretary or equivalent in civilian agencies may, on a non-delegable basis determine that a consolidated requirement is necessary and justified when:

(A) There are benefits that do not meet the thresholds set forth in paragraph (d)(5)(i) of this section but, in the aggregate, are critical to the agency's mission success; and

(B) Procurement strategy provides for maximum practicable participation by small business.

(iii) The reduction of administrative or personnel costs alone shall not be a justification for bundling of contract requirements unless the administrative or personnel cost savings are expected to be substantial, in relation to the dollar value of the procurement to be consolidated (including options). To be substantial, such cost savings must be at least 10 percent of the contract value (including options).

(iv) In assessing whether cost savings and/or a price reduction would be achieved through bundling, the procuring activity and SBA must compare the price that has been charged by small businesses for the work that they have performed and, where available, the price that could have been or could be charged by small businesses for the work not previously performed by small business.

(6) *OMB Circular A–76 Cost Comparison Analysis.* The substantial benefit analysis set forth in paragraph (d)(5)(i) of this section is not required where a requirement is subject to a Cost Comparison Analysis under OMB Circular A–76 (See 5 CFR 1310.3 for availability).

(7) *Substantial bundling.* Where a proposed procurement strategy involves a substantial bundling of contract requirements, the procuring agency must, in the documentation of that strategy, include a determination that the anticipated benefits of the proposed bundled contract justify its use, and must include, at a minimum:

(i) The analysis for bundled requirements set forth in paragraph (d)(5)(i) of this section;

(ii) An assessment of the specific impediments to participation by small business concerns as prime contractors that will result from the substantial bundling;

(iii) Actions designed to maximize small business participation as prime contractors, including provisions that encourage small business teaming for the substantially bundled requirement; and

(iv) Actions designed to maximize small business participation as subcontractors (including suppliers) at any tier under the contract or contracts that may be awarded to meet the requirements.

(8) *Significant subcontracting opportunity.* (i) Where a bundled or substantially bundled requirement offers a significant opportunity for subcontracting, the procuring agency must designate the following factors as significant factors in evaluating offers:

(A) A factor that is based on the rate of participation provided under the subcontracting plan for small business in the performance of the contract; and

(B) For the evaluation of past performance of an offeror, a factor that is based on the extent to which the offeror attained applicable goals for small business participation in the performance of contracts.

(ii) Where the offeror for such a bundled contract qualifies as a small business concern, the procuring agency must give to the offeror the highest score possible for the evaluation factors identified in paragraph (d)(5)(i) of this section.

5. In § 125.6, revise paragraph (g) to read as follows:

§ 125.6 Prime contractor performance requirements (limitations on subcontracting).

* * * * *

(g) Where an offeror is exempt from affiliation under § 121.103(f)(3) of this chapter and qualifies as a small business concern, the performance of work requirements set forth in this section apply to the cooperative effort of the team or joint venture, not its individual members.

Dated: June 20, 2000.

Aida Alvarez,

Administrator.

[FR Doc. 00–18795 Filed 7–25–00; 8:45 am]

BILLING CODE 8025–01–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–CE–25–AD; Amendment 39–11832; AD 2000–15–03]

RIN 2120–AA64

Airworthiness Directives; Stemme GmbH & Co. KG Models S10–V and S10–VT Sailplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that applies to Stemme GmbH & Co. KG (Stemme) Models S10–V and S10–VT sailplanes. This AD supersedes AD 98–15–24, which currently requires replacing the propeller blade suspension forks with parts of improved design on Stemme S10–V sailplanes. This AD requires you to remove the propeller blade suspension forks, exchange them with the manufacturer for improved design forks, and install the improved design propeller blade suspension forks. This AD is the result of analysis that shows that the existing propeller blade suspension forks are currently cracking more rapidly than originally projected. The actions specified by this AD are intended to prevent certain propeller blade suspension forks from cracking, which could result in the loss of a propeller blade during flight with possible lateral imbalance and loss of thrust.

DATES: This AD becomes effective on August 4, 2000.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in the regulation as of August 4, 2000.

The Federal Aviation Administration (FAA) must receive any comments on this rule on or before August 25, 2000.

ADDRESSES: Submit comments in triplicate to the FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 99–CE–25–AD, 901 Locust, Room 506, Kansas City, Missouri 64106.

You may get the service information referenced in this AD from Stemme GmbH & Co. KG, Gustav-Meyer-Allee 25, D–13355 Berlin, Germany; telephone: 49.33.41.31.11.70; facsimile: 49.33.41.31.11.73.

You may examine this information at FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 99–CE–25–AD, 901 Locust, Room 506, Kansas City, Missouri 64106; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Mike Kiesov, Aerospace Engineer, FAA, Small Airplane Directorate, 1201 Walnut, suite 900, Kansas City, Missouri 64106; telephone: (816) 426–6934; facsimile: (816) 426–2169.

SUPPLEMENTARY INFORMATION:

Events Leading to the Issuance of This AD

Has FAA taken any action to this point? An incident where the propeller blade suspension fork failed during flight on a Stemme Model S10–V sailplane caused FAA to issue AD 98–15–24, Amendment 39–10674. This AD was published in the **Federal Register** on July 23, 1998 (63 FR 39484), and required replacing the propeller blade suspension fork, distance ring, and nut with parts of improved design on Stemme Model S10–V sailplanes.

After issuing AD 98–15–24, the Luftfahrt-Bundesamt (LBA), which is the airworthiness authority for Germany, notified FAA that the improved design propeller blade suspension fork (part number (P/N) A09–10AP–V08) on one of the affected sailplanes failed during flight. Analysis of this propeller blade revealed a fracture located at the end of the threaded fastening pin. This caused FAA to issue a proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that would apply to all Stemme Models S10–V and S10–VT sailplanes that incorporate a certain propeller blade suspension fork. This proposal was published in the **Federal Register** as a notice of proposed rulemaking (NPRM) on July 21, 1999 (64 FR 39100).

The NPRM proposed to supersede AD 98–15–24 with a new AD that would require you to repetitively exchange (through the manufacturer) the P/N A09–10AP–V08 (or FAA-approved equivalent part number) propeller blade suspension fork for a fork that has passed X-ray crack testing requirements.

Was the public invited to comment on the NPRM? The FAA invited interested persons to participate in the making of the amendment. We received no comments on the proposed rule or the cost impact upon the public. However, the LBA has informed us that the existing propeller blade suspension forks are currently cracking more rapidly than originally projected.

Is there a propeller blade suspension fork design that is better than the current design? Stemme has worked

with the LBA in designing an improved propeller blade suspension fork (P/N 10AP–V88) along with a modification to the propeller gearbox suspension.

Has the manufacturer issued service information? Stemme issued Service Bulletin No. A31–10–051, Amendment-Index 05.a, dated December 6, 1999. This service bulletin specifies procedures for accomplishing the propeller blade suspension fork replacement and propeller gearbox suspension modification, which were described previously.

The FAA's Determination and Followup Action

What have we decided? After careful review of all available information related to the subject presented above, including the above-referenced comments, FAA has determined that:

—the propeller blade suspension fork replacement and propeller gearbox suspension modification should be accomplished on all Stemme Models S10–V and S10–VT sailplanes; and

—AD action should be taken to prevent certain propeller blade suspension forks from cracking, which could result in the loss of a propeller blade during flight with possible lateral imbalance and loss of thrust.

What is our next action? Since the improved design propeller blade suspension fork replacement and propeller gearbox suspension modification requirements increase the burden on the owners/operators of the affected sailplanes over what was proposed in the NPRM, we are required to allow the public additional time to comment on the AD.

Because of the low hours TIS on the sailplanes where the cracked propeller blade suspension forks were found, FAA finds that notice and opportunity for public prior comment are impracticable. Therefore, good cause exists for making this amendment effective in less than 30 days.

What does this AD require? This AD requires you to:

—remove the propeller blade suspension forks;

—exchange them with the manufacturer for improved design forks; and

—install the improved design propeller blade suspension forks.

Accomplishment procedures are specified in Stemme Service Bulletin No. A31–10–051, Amendment-Index 05.a, dated December 6, 1999.

Comments Invited

Can I comment on this AD? This action is in the form of a final rule and the FAA did not precede it with notice and opportunity for public comment. FAA is issuing this final rule without prior notice because an urgent situation concerning safety of flight exists. However, FAA is still inviting comments on this rule. You may submit whatever written data, views, or arguments you choose. You need to include the rule's docket number and submit your comments in triplicate to the address specified under the caption **ADDRESSES**. The FAA will consider all comments received on or before the closing date. We may amend this rule in light of comments received.

How can we communicate more clearly with you? The FAA is reviewing the writing style we currently use in regulatory documents, in response to the Presidential memorandum of June 1, 1998. That memorandum requires federal agencies to communicate more clearly with the public. We are interested in your comments on the ease of understanding this document, and any other suggestions you might have to improve the clarity of FAA communications that affect you. You can get more information about the Presidential memorandum and the plain language initiative at *http://www.faa.gov/language/.*

The FAA specifically invites comments on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. You may examine all comments we receive before and after the closing date of the rule in the Rules Docket. We will file a report in the Rules Docket that summarizes each FAA contact with the public that concerns the substantive parts of this AD.

How can I be sure the FAA receives my comment? If you want us to acknowledge the receipt of your comments, you must include a self-addressed, stamped postcard. On the postcard, write ''Comments to Docket No. 99–CE–25–AD.'' We will date stamp and mail the postcard back to you.

Regulatory Impact

How does this AD impact relations between Federal and State governments? These regulations will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. The FAA has determined that this final rule does not have federalism implications under Executive Order 13132.

How does this action involve an emergency situation? The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and is not a significant regulatory action under Executive Order 12866. We have determined that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If FAA determines that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, we will prepare a final regulatory evaluation. You may obtain a copy of the evaluation (if required) from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, under the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. FAA amends section 39.13 by removing Airworthiness Directive (AD) 98–15–24, Amendment 39–10674 (39484, July 23, 1998), and by adding a new AD to read as follows:

2000–15–03 Stemme GmbH & Co. KG: Amendment 39–11832; Docket No. 99–CE–25–AD.

(a) *What sailplanes are affected by this AD?* This AD applies to Models S10–V and S10–VT sailplanes, all serial numbers, certificated in any category.

(b) *Who must comply with this AD?* Anyone who wishes to operate any of the above sailplanes on the U.S. Register must comply with this AD.

(c) *What problem does this AD address?* The actions of this AD are intended to prevent certain propeller blade suspension forks from cracking, which could result in the loss of a propeller blade during flight with possible lateral imbalance and loss of thrust.

(d) *What actions must I accomplish to address this problem?* To address this problem, you must accomplish the following:

Action	When	Procedures
(1) Removal, exchange, and reinstallation:	All actions within 10 hours time-in-service as (TIS) after August 4, 2000 (the effective date of this AD).	(1) Accomplish, each action accordingly, as follows:
(i) Remove from the sailplane any propeller blade suspension fork that is not part number (P/N) 10AP–V88.		(i) Removal: In accordance with the instructions in the maintenance manual.
(ii) Exchange (through the manufacturer) this propeller blade suspension fork for a propeller blade suspension fork that is P/N 10AP–V88..		(ii) Exchange: In accordance with the instructions in Stemme Service Bulletin No. A31–10–051, Amendment-Index: 05.a, dated December 6, 1999.
(iii) Install the improved design propeller blade suspension fork (P/N 10AP–V88) on the sailplane..		(iii) Installation: In accordance with the instructions in the maintenance manual.
(2) Modify the propeller gearbox suspension.	Within 10 hours TIS after August 4, 2000 (the effective date of this AD)..	In accordance with the instructions in Stemme Service Bulletin No. A31–10–051, Amendment-Index: 05.a, dated December 6, 1999.
(3) Dynamically balance the propeller.	Prior to further flight after the installation and modification required in paragraphs (d)(1)(i), (d)(1)(ii), (d)(1)(iii), and (d)(2) of this AD..	In accordance with the instructions in Stemme Procedural Instruction A17–10AP–V/2–E ''Dynamic balancing of the Stemme S10 powered glider propeller in the S10–V and S10–VT models.''
(4) Do not install a propeller blade suspension fork that is not P/N 10AP–V88 on any affected sailplane.	As of August 4, 2000 (the effective date of this AD).	Not Applicable.

(e) *Can I comply with this AD in any other way?*

(1) You may use an alternative method of compliance or adjust the compliance time if:

(i) Your alternative method of compliance provides an equivalent level of safety; and

(ii) The Manager, Small Airplane Directorate, approves your alternative. Submit your request through an FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Small Airplane Directorate.

(2) Alternative methods of compliance that were approved in accordance with AD 98–15–24 are not considered approved in accordance with this AD.

Note: This AD applies to each sailplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For sailplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (e) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if you have not eliminated the unsafe condition, specific actions you propose to address it.

(f) *Where can I get information about any already-approved alternative methods of compliance?* Contact Mike Kiesov, Aerospace Engineer, FAA, Small Airplane Directorate, 1201 Walnut, suite 900, Kansas City, Missouri 64106; telephone: (816) 426–6934; facsimile: (816) 426–2169.

(g) *What if I need to fly the sailplane to another location to comply with this AD?* The FAA can issue a special flight permit under sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate your sailplane to a location where you can accomplish the requirements of this AD.

(h) *Are any service bulletins incorporated into this AD by reference?*

(1) Actions required by this AD must be done as follows:

(i) Modification: In accordance with Stemme Service Bulletin No. A31–10–051, Amendment–Index: 05.a, dated December 6, 1999; and

(ii) Balancing: In accordance with Stemme Procedural Instruction A17–10AP–V/2–E ''Dynamic balancing of the Stemme S10 powered glider propeller in the S10–V and S10–VT models'', August 24, 1999.

(2) The Director of the Federal Register approved this incorporation by reference under 5 U.S.C. 552(a) and 1 CFR part 51.

(3) You can get copies from Stemme GmbH & Co. KG, Gustav-Meyer-Allee 25, D–13355 Berlin, Germany; telephone: 49.33.41.31.11.70; facsimile: 49.33.41.31.11.73.

(4) You can look at copies at FAA, Central Region, Office of the Regional Counsel, 901 Locust, Room 506, Kansas City, Missouri; or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

(i) *When does this amendment become effective?* This amendment becomes effective on August 4, 2000.

Issued in Kansas City, Missouri, on July 17, 2000.

Marvin R. Nuss,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 00–18597 Filed 7–25–00; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 00–AGL–11]

Modification of Class E Airspace; Shelbyville, IN

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action modifies Class E airspace at Shelbyville, IN. An Area Navigation (RNAV) Standard Instrument Approach Procedure (SIAP) to Runway (Rwy) 01, Amendment (Amdt) 1, and an RNAV SIAP to Rwy 19, Amdt 1, have been developed for Shelbyville Municipal Airport. Controlled airspace extending upward from 700 feet or more above the surface of the earth is needed to contain aircraft executing these approaches. This action realigns the existing Class E airspace to the northwest by 0.3 nautical miles (NM) for Shelbyville Municipal Airport.

EFFECTIVE DATE: 0901 UTC, October 5, 2000.

FOR FURTHER INFORMATION CONTACT: Denis C. Burke, Air Traffic Division, Airspace Branch, AGL–520, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (847) 294–7568.

SUPPLEMENTARY INFORMATION:

History

On Tuesday, April 25, 2000, the FAA proposed to amend 14 CFR part 71 to

modify Class E airspace at Shelbyville, IN (65 FR 24138). The proposal was to modify controlled airspace extending upward from the 700 feet above the surface to contain Instrument Flight Rules (IFR) operations in controlled airspace during poritons of the terminal operation and while transiting between the route and terminal environments.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Class E airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9G dated September 1, 1999, and effective September 16, 1999, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

The Rule

This amendment to 14 CFR part 71 modifies Class E airspace at Shelbyville, IN, to accommodate aircraft executing instrucment flight procedures into and out of Shelbyville Municipal Airport. The area will be depicted on appropriate aeronautical charts.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and route amendments are necessary to keep them operationally current. Therefore this regulation—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 95665, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9G, Airspace Designations and Reporting Points, dated September 1, 1999, and effective September 16, 1999, is amended as follows:

* * * * *

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

AGL IN E5 Shelbyville, IN [Revised]

Shelbyville Municipal Airport, IN (Lat. 39°34′59″ N., Long. 85°48′17″ W.)
Shelbyville VORTAC (Lat. 39°37′57″ N., Long. 85°49′28″ W.)

That airspace extending upward from 700 feet above the surface within a 6.7-mile radius of the Shelbyville Municipal Airport, and within 1.8 miles each side of the Shelbyville VORTAC 340° radial, extending from the 6.7-mile radius to 9.6 miles northwest of the VORTAC, excluding that airspace within the Mount Confort, IN, Class E airspace area.

* * * * *

Issued in Des Plaines, Illinois on July 10, 2000.

Christopher R. Blum,

Manager, Air Traffic Division.

[FR Doc. 00–18892 Filed 7–25–00; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 00–AGL–13]

Modification of Class E Airspace; Ionia, MI

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action modifies Class E airspace at Ionia, MI. An Area Navigation (RNAV) Standard Instrument Approach Procedure (SIAP) to Runway 27 has been developed for Ionia County Airport. Controlled airspace extending upward from 700 feet or more above the surface of the earth is needed to contain aircraft executing this approach. This action increases the radius of the existing controlled airspace for Ionia County Airport.

EFFECTIVE DATE: 0901 UTC, October 5, 2000.

FOR FURTHER INFORMATION CONTACT: Denis C. Burke, Air Traffic Division, Airspace Branch, AGL–520, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (847) 294–7568.

SUPPLEMENTARY INFORMATION:

History

On Tuesday, April 25, 2000, the FAA proposed to amend 14 CFR part 71 to modify Class E airspace at Ionia, MI (65 FR 24140). The proposal was to modify controlled airspace extending upward from the 700 feet above the surface to contain Instrument Flight Rules (IFR) operations in controlled airspace during portions of the terminal operation and while transiting between the enroute and terminal environments. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Class E airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9G dated September 1, 1999, and effective September 16, 1999, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

The Rule

This amendment to 14 CFR part 71 modifies Class E airspace at Ionia, MI, to accommodate aircraft executing instrument flight procedures into and out of Ionia County Airport. The area will be depicted on appropriate aeronautical charts.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep operationally current. Therefore, this regulation—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it

is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 95665, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9G, Airspace Designations and Reporting Points, dated September 1, 1999, and effective September 16, 1999, is amended as follows:

* * * * *

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

AGL MI E5 Ionia, MI [Revised]

Ionia County Airport, MI
(Lat. 42°56′16″ N., long. 85°03′40″ W.)

That airspace extending upward from 700 feet above the surface within a 7.4-mile radius of the Ionia County Airport.

* * * * *

Issued in Des Plaines, Illinois on July 10, 2000.

Christopher R. Blum,

Manager, Air Traffic Division.

[FR Doc. 00–18891 Filed 7–25–00; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 00–AGL–12]

Establishment of Class E Airspace; Greenwood/Wonder Lake, IL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes Class E airspace at Greenwood/Wonder Lake, IL. An Area Navigation–A (RNAV–A) Standard Instrument Approach Procedure (SIAP) has been developed for Galt Field Airport. Controlled airspace extending upward from 700 feet or more above the surface of the earth is needed to contain aircraft executing this approach. This action creates controlled airspace with an 8.8-mile radius for Galt Field Airport.

EFFECTIVE DATE: 0901 UTC, October 5, 2000.

FOR FURTHER INFORMATION CONTACT: Denis C. Burke, Air Traffic Division, Airspace Branch, AGL–520, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (847) 294–7568.

SUPPLEMENTARY INFORMATION:

History

On Tuesday, April 25, 2000, the FAA proposed to amend 14 CFR part 71 to establish Class E airspace at Greenwood/Wonder Lake, IL (65 FR 24139). The proposal was to add controlled airspace extending upward from 700 to 1200 feet AGL to contain Instrument Flight Rules (IFR) operations in controlled airspace during portions of the terminal operation and while transiting between the enroute and terminal environments.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9G dated September 1, 1999, and effective September 16, 1999, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The Rule

This amendment to 14 CFR part 71 establishes Class E airspace at Greenwood/Wonder Lake, IL, to accommodate aircraft executing the proposed RNAV–A SIAP at Galt Field Airport by creating controlled airspace. The area will be depicted on appropriate aeronautical charts.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation—(1) is not ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 95665, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9G, Airspace Designations and Reporting Points, dated September 1,1999, and effective September 16, 1999, is amended as follows:

* * * * *

Paragraph 6005 Class E airspace areas extending upward from 700 Feet or more above the surface of the earth.

* * * * *

AGL IL E5 Greenwood/Wonder Lake, IL [New]

Greenwood/Wonder Lake, Galt Field Airport, IL
(Lat. 42° 24′ 10″N., long. 88° 22′ 33″W.)

That airspace extending upward from 700 feet above the surface within a 8.8-mile radius of the Galt Field Airport, excluding that airspace within the Chicago, IL, Class E airspace area.

* * * * *

Issued in Des Plaines, Illinois on July 10, 2000.

Christopher R. Blum,

Manager, Air Traffic Division.

[FR Doc. 00–18890 Filed 7–25–00; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 00–AGL–15]

Modification of Class D Airspace; Chicago, Aurora Municipal Airport, IL; and Modification of Class E Airspace; Chicago, Aurora Municipal Airport, IL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action modifies Class D airspace at Chicago, Aurora Municipal Airport, IL, and modifies Class E airspace at Chicago, Aurora Municipal Airport, IL. A VHF Omnidirectional Range (VOR) Standard Instrument Approach Procedure (SIAP) to Runway (Rwy) 15, and a VOR SIAP to Rwy 33, have been developed for Aurora Municipal Airport. Controlled airspace extending upward from the surface of the earth is needed to contain aircraft executing these approaches. This action increases the radius of the existing Class D and Class E airspace for Aurora Municipal Airport.

EFFECTIVE DATE: 0901 UTC, October 5, 2000.

FOR FURTHER INFORMATION CONTACT: Denis C. Burke, Air Traffic Division, Airspace Branch, AGL–520, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (847) 294–7568.

SUPPLEMENTARY INFORMATION:

History

On Tuesday, May 2, 2000, the FAA proposed to amend 14 CFR part 71 to modify Class D airspace and Class E airspace at Chicago, Aurora Municipal Airport, IL (65 FR 25456). The proposal was to modify controlled airspace extending upward from the surface to contain Instrument Flight Rules (IFR) operations in controlled airspace during portions of the terminal operation and while transiting between the enroute and terminal environments.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Class D airspace designations are published in paragraph 5000, and Class E airspace areas designated as extensions to a Class D airspace area are published in paragraph 6004, of FAA Order 7400.9G dated September 1, 1999, and effective September 16, 1999, which is incorporated by reference in 14 CFR 71.1. The Class D airspace designations and Class E airspace designations listed in this document will be published subsequently in the Order.

The Rule

This amendment to 14 CFR part 71 modifies Class D airspace and Class E airspace at Chicago, Aurora Municipal Airport, IL, to accommodate aircraft executing instrument flight procedures into and out of Aurora Municipal Airport, IL. The area will be depicted on appropriate aeronautical charts.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 95665, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9G, Airspace Designations and Reporting Points, dated September 1, 1999, and effective September 16, 1999, is amended as follows:

* * * * *

Paragraph 5000 Class D airspace.

* * * * *

AGL IL D Chicago, Aurora Municipal Airport, IL [Revised]

Chicago, Aurora Municipal Airport, IL
(Lat. 41°46′19″ N., long. 88°28′32″ W.)

That airspace extending upward from the surface to and including 3,200 feet MSL within an 4.2-mile radius of the Aurora Municipal Airport. This Class D airspace area is effective during the specific dates and times established in advance by Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Paragraph 6004 Class E airspace areas designated as an extension to a Class D airspace area.

* * * * *

AGL IL E4 Chicago, Aurora Municipal Airport, IL [Revised]

Chicago, Aurora Municipal Airport, IL
(Lat. 41°46′19″ N., long. 88°28′32″ W.)

DuPage VOR/DME

(Lat. 41°53′25″ N., long. 88°21′01″ W.)

That airspace extending upward from the surface within 1.3 miles each side of the DuPage VOR/DME 217° radial extending from the 4.2-mile radius of the Aurora Municipal Airport to 6.6 miles northeast of the airport. This Class E airspace area is effective during the specific dates and times established in advance by Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Issued in Des Plaines, Illinois on July 10, 2000.

Christopher R. Blum,

Manager, Air Traffic Division.

[FR Doc. 00–18889 Filed 7–25–00; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 00–AGL–16]

Modification of Class D Airspace; Gary, IN; and modification of Class E Airspace; Gary, IN

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action modifies Class D airspace at Gary, IN, and modifies Class E airspace at Gary, IN. An Area Navigation (RNAV) Standard Instrument Approach Procedure (SIAP) to Runway (Rwy) 20, and a helicopter Instrument Landing System (Copter ILS) SIAP to Rwy 30, have been developed for Gary Regional Airport. Controlled airspace extending upward from the surface of

the earth is needed to contain aircraft executing these approaches. This action increases the radius of the existing Class D and Class E airspace for Gary Regional Airport.

EFFECTIVE DATE: 0901 UTC, October 5, 2000.

FOR FURTHER INFORMATION CONTACT: Denis C. Burke, Air Traffic Division, Airspace Branch, AGL–520, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (847) 294–7568.

SUPPLEMENTARY INFORMATION:

History

On Tuesday, May 2, 2000, the FAA proposed to amend 14 CFR part 71 to modify Class D airspace and Class E airspace at Gary, IN, (65 FR 25457). The proposal was to modify controlled airspace extending upward from the surface to contain Instrument Flight Rules (IFR) operations in controlled airspace during portions of the terminal operation and while transiting between the enroute and terminal environments. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Class D airspace designations are published in paragraph 5000, and Class E airspace areas extending upward from 700 feet or more above the surface of the earth, are published in paragraph 6005, of FAA Order 7400.9G dated September 1, 1999, and effective September 16, 1999, which is incorporated by reference in 14 CFR 71.1. The Class D airspace designations and Class E airspace designations listed in this document will be published subsequently in the Order.

The Rule

This amendment to 14 CFR part 71 modifies Class D airspace and Class E airspace at Gary, IN, to accommodate aircraft executing instrument flight procedures into and out of Gary Regional Airport. The area will be depicted on appropriate aeronautical charts.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation on a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 95665, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9G, Airspace Designations and Reporting Points, dated September 1, 1999, and effective September 16, 1999, is amended as follows:

* * * * *

Paragraph 5000 Class D airspace.

* * * * *

AGL IN D Gary, IN [Revised]

Gary Regional Airport, IN
(Lat. 41° 36′ 59″ N., long. 87° 24′ 46″ W.)

That airspace extending upward from the surface to and including 3,100 feet MSL within an 4.2-mile radius of the Gary Regional Airport. This Class D airspace area is effective during the specific dates and times established in advance by Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

AGL IN E5 Gary, IN [Revised]

Gary Regional Airport, IN
(Lat. 41° 36′ 59″ N., long. 87° 24′ 46″ W.)

That airspace extending upward from 700 feet above the surface within 6.7-mile radius of the Gary Regional Airport, excluding the airspace within the Chicago Class E airspace area.

* * * * *

Issued in Des Plaines, Illinois on July 10, 2000.

Christopher R. Blum,

Manager, Air Traffic Division.

[FR Doc. 00–18888 Filed 7–25–00; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

14 CFR Part 71

[Airspace Docket No. 00–AGL–10]

Establishment of Class E Airspace; Minneapolis, Crystal Airport, MN; Correction

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; correction.

SUMMARY: This action corrects an error in the legal description of a final rule that was published in the **Federal Register** on Wednesday, June 28, 2000 (65 FR 39792), Airspace Docket No. 00–AGL–10. The final rule established Class E Airspace at Minneapolis, Crystal Airport, MN.

EFFECTIVE DATE: 0901 UTC, October 5, 2000.

FOR FURTHER INFORMATION CONTACT: Denis C. Burke, Air Traffic Division, Airspace Branch, AGL–520, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, IL 60018; telephone: (847) 294–7477.

SUPPLEMENTARY INFORMATION:

History

Federal Register Document 00–16335, Airspace Docket No. 00–AGL–10, published on June 28, 2000 (65 FR 39792), established Class E Airspace at Minneapolis, Crystal Airport, MN. An error in the legal description for the Class E airspace for Minneapolis, Crystal Airport, MN, was published. This action corrects that error.

Correction to Final Rule

Accordingly, pursuant to the authority delegated to me, the legal description for the Class E airspace, Minneapolis, Crystal Airport, MN, as published in the **Federal Register** June 28, 2000 (65 FR 39792), (FR Doc. 00–16335), is corrected as follows:

PART 71—[CORRECTED]

§ 71.1 [Corrected]

On page 39792, Column 3, line 25, change (lat. 43°03′43″ N., long. 93°21′14″ W.) to (lat. 45°03′43″ N., long. 93°21′14″ W.).

Issued in Des Plaines, Illinois on July 12, 2000.

Christopher R. Blum,

Manager, Air Traffic Division.

[FR Doc. 00–18887 Filed 7–25–00; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 00–AGL–02]

Modification of Class E Airspace; Marquette, MI

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action modifies Class E airspace at Marquette, MI. An Area Navigation (RNAV) Standard Instrument Approach Procedure (SIAP) to Runway (Rwy) 19 has been developed for Sawyer International Airport. Controlled airspace extending upward from 700 feet or more above the surface of the earth is needed to contain aircraft executing this approach. This action increases that portion of the existing Class E airspace which extends upward from 1,200 feet above the surface of the earth for Sawyer International Airport.

EFFECTIVE DATE: 0901 UTC, October 5, 2000.

FOR FURTHER INFORMATION CONTACT: Denis C. Burke, Air Traffic Division, Airspace Branch, AGL–520, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018; telephone (847) 294–7568.

SUPPLEMENTARY INFORMATION:

History

On Friday, May 5, 2000, the FAA proposed to amend 14 CFR part 71 to modify Class E airspace at Marquette, MI (65 FR 26158). The proposal was to modify controlled airspace extending upward from the 700 feet above the surface to contain Instrument Flight Rules (IFR) operations in controlled airspace during portions of the terminal operation and while transiting between the enroute and terminal environments.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on he proposal to the FAA. No comments objecting to the proposal were received. Class E airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9G dated September 1, 1999, and effective September 16, 1999, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

The Rule

This amendment to 14 CFR part 71 modifies Class E airspace at Marquette, MI, to accommodate aircraft executing instrument flight procedures into and out of Sawyer International Airport. The area will be depicted on appropriate aeronautical charts.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal.

Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 95665, 3 CFR 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9G, Airspace Designations and Reporting Points, dated September 1, 1999, and effective September 16, 1999, is amended as follows:

* * * * *

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

AGL MI E5 Marquette, MI [Revised]

Marquette, Sawyer International Airport, MI
(Lat. 46°21′13″ N., Long. 87°23′45″ W.)

That airspace extending upward from 700 feet above the surface within an 7.1-miles radius of the Sawyer International Airport, and that airspace extending upward from 1,200 feet above the surface within an area bounded on the north by latitude 47°05′00″ N., on the east by longitude 86°23′30″ W., on the south by latitude 45°45′00″ N., and on the east by V9; excluding all Federal Airways, Hancock, MI, Escanaba, MI, and Iron Mountain, MI, Class E airspace areas.

* * * * *

Issued in Des Plaines, Illinois on July 10, 2000.

Christopher R. Blum,

Manager, Air Traffic Division.

[FR Doc. 00–18893 Filed 7–25–00; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF COMMERCE

Bureau of Export Administration

15 CFR Part 744

[Docket No. 981019261–0207–03]

RIN 0694–AB73

Export Administration Regulations Entity List: Revisions to the Entity List

AGENCY: Bureau of Export Administration, Commerce.

ACTION: Final rule.

SUMMARY: On November 19, 1998, the Bureau of Export Administration (BXA) published a rule in the **Federal Register** (63 FR 64322) that added certain Indian and Pakistani entities to the Entity List in the Export Administration Regulations (EAR). Further revisions were made to the list of Indian entities on March 17, 2000 (65 FR 14444). This rule removes two Indian entities: the Nuclear Science Centre located in New Delhi and the Uranium Recovery Plant located in Cochin; and adds one Indian entity: Indian Space Research Organization (ISRO), Telemetry, Tracking and Command Network (ISTRAC) to the Entity List.

DATES: This rule is effective July 26, 2000.

FOR FURTHER INFORMATION CONTACT: Eileen M. Albanese, Director, Office of Exporter Services, Bureau of Export Administration, Telephone: (202) 482–0436.

SUPPLEMENTARY INFORMATION:

Background

In accordance with section 102(b) of the Arms Export Control Act, President Clinton reported to the Congress on May 13, 1998, with regard to India and May 30, 1998, with regard to Pakistan his determinations that those non-nuclear weapon states had each detonated a nuclear explosive device. The President directed in the determination reported to the Congress that the relevant agencies and instrumentalities of the United States take the necessary actions to implement the sanctions described in section 102(b)(2) of that Act. Consistent with the President's directive, the Bureau of Export Administration (BXA) implemented certain sanctions, as well as certain supplementary measures to enhance the sanctions on November 19, 1998 (63 FR 64322).

Based on a consensus decision by the Administration to more tightly focus the sanctions on those Indian entities which make direct and material contributions to weapons of mass destruction and missile programs and items that can contribute to such programs, BXA issued revisions to the list of Indian entities on March 17, 2000 (65 FR 14444). This rule makes additional revisions to the list by removing the Nuclear Science Centre located in New Delhi from the Entity List table in Supplement No. 4 to part 744. In addition, this rule removes the Uranium Recovery Plant located in Cochin from the subordinates listed under the Indian organization Department of Atomic Energy (DAE) in Appendix A to the Entity List, ''Listed Subordinates of Listed Indian Organizations.'' Lastly, this rule adds the Indian Space Research Organization (ISRO), Telemetry, Tracking and Command Network (ISTRAC) to subordinates listed under the Indian organization Department of Space (DOS) in Appendix A to the Entity List.

The license review policy for ISTRAC will be one of denial for items controlled for NP or MT reasons, except items intended for the preservation of safety of civil aircraft, which will be reviewed on a case-by-case basis; and computers, which will be reviewed with a presumption of denial. All other items subject to the EAR to ISTRAC will be reviewed with a presumption of denial, with the exception of items classified as EAR99, which will be reviewed with a presumption of approval.

The removal of entities from the Entity List does not relieve exporters or reexporters of their obligations under General Prohibition 5 in § 736.2(b)(5) of the EAR which provides that, ''you may not, without a license, knowingly export or reexport any item subject to the EAR to an end-user or end-use that is prohibited by part 744 of the EAR.'' BXA strongly urges the use of Supplement No. 3 to part 732 of the EAR, ''BXA's 'Know Your Customer' Guidance and Red Flags'' when exporting or reexporting to India and Pakistan.

Although the Export Administration Act (EAA) expired on August 20, 1994, the President invoked the International Emergency Economic Powers Act and continued in effect the EAR, and, to the extent permitted by law, the provisions of the EAA in Executive Order 12924 of August 19, 1994, as extended by the President's notices of August 15, 1995 (60 FR 42767), August 14, 1996 (61 FR 42527), August 13, 1997 (62 FR 43629), August 13, 1998 (63 FR 44121), and August 10, 1999 (64 FR 44101, August 13, 1999).

Rulemaking Requirements

1. This final rule has been determined to be not significant for purposes of E.O. 12866.

2. This rule contains and involves collections of information subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). These collections have been approved by the Office of Management and Budget under control number 0694–0088, ''Multi-Purpose Application,'' which carries a burden hour estimate of 40 minutes to prepare and submit electronically and 45 minutes to submit manually on form BXA–748P; and 0694–0111, ''India Pakistan Sanctions,'' which carries a burden hour estimate of 40 minutes to prepare and submit electronically and 45 minutes to submit manually on form BXA–748P. Notwithstanding any other provision of law, no person is required to respond nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the Paperwork Reduction Act, unless that collection of information displays a currently valid OMB Control Number.

3. This rule does not contain policies with Federalism implications sufficient to warrant preparation of a Federalism assessment under Executive Order 13132.

4. The provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, the opportunity for public participation, and a delay in effective date, are inapplicable because this regulation involves a military and foreign affairs function of the United States (see 5 U.S.C. 553(a)(1)). Further, no other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this final rule. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule under 5 U.S.C. 553 or by any other law, the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) are not applicable.

Therefore, this regulation is issued in final form. Although there is no formal comment period, public comments on this regulation are welcome on a continuing basis. Comments should be submitted to Sharron Cook, Regulatory Policy Division, Bureau of Export Administration, Department of Commerce, PO Box 273, Washington, DC 20044.

List of Subjects in 15 CFR Part 744

Exports, Foreign trade, Reporting and recordkeeping requirements.

Accordingly, part 744 of the Export Administration Regulations (15 CFR parts 730 through 799) is amended as follows:

1. The authority citation for 15 CFR part 744 continues to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; 22 U.S.C. 3201 *et seq.*; 42 U.S.C. 2139a; E.O. 12058, 43 FR 20947, 3 CFR, 1978 Comp., p. 179; E.O. 12851, 58 FR 33181, 3 CFR, 1993 Comp., p. 608; E.O. 12924, 59 FR 43437, 3 CFR, 1994 Comp., p. 917; E.O. 12938, 59 FR 59099, 3 CFR, 1994 Comp., p. 950; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; Notice of November 12, 1998, 63 FR 63589, 3 CFR, 1998 Comp., p. 305; Notice of August 10, 1999, 64 FR 44101, 3 CFR, 1999 Comp., p.302.

PART 744—[AMENDED]

2. Supplement No. 4 to part 744 is amended by:

a. Removing the entity ''Nuclear Science Centre (NSC), New Delhi'' from ''India'' in the table;

b. Removing ''Uranium Recovery Plant, Cochin'' from the subordinates listed under the Indian organization ''Department of Atomic Energy (DAE)'' in Appendix A, Listed Subordinates of Listed Indian Organizations; and

c. Adding in alphabetical order the entity ''Indian Space Research Organization (ISRO), Telemetry, Tracking and Command Network (ISTRAC)'' to the subordinates listed under the Indian organization ''Department of Space (DOS)'' in Appendix A to Supplement No. 4 to part 744 A, Listed Subordinates of Listed Indian Organizations.

Dated: July 18, 2000.

R. Roger Majak,

Assistant Secretary for Export Administration.

[FR Doc. 00–18820 Filed 7–25–00; 8:45 am]

BILLING CODE 3510–33–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Part 902

50 CFR Part 648

[Docket No. 990713190–0155–02; I.D. 041599B]

RIN 0648–AH63

Fisheries of the Northeastern United States; Amendment 1 to the Fishery Management Plan for the Atlantic Bluefish Fishery; Spiny Dogfish Fishery Management Plan

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule; technical amendment.

SUMMARY: NMFS issues this final rule to implement approved measures contained in Amendment 1 (Amendment 1) to the Fishery Management Plan for the Atlantic Bluefish Fishery (FMP). Amendment 1 contains a number of measures requiring regulatory implementation to control fishing mortality on Atlantic bluefish (bluefish). This rule implements permit and reporting requirements for commercial vessels, dealers, and party/charter boats; implements permit requirements for bluefish vessel operators; establishes a Bluefish Monitoring Committee (Committee) charged with annually recommending to the Mid-Atlantic Fishery Management Council (Council) and the Atlantic States Marine Fisheries Commission (Commission) the total allowable landings (TAL) and other restrictions necessary to achieve the target fishing mortality rates (F) specified in the FMP; establishes a framework adjustment process; establishes a 9-year stock rebuilding schedule; establishes a commercial quota with state allocations; and establishes a recreational harvest limit. The purpose of this rule is to control fishing mortality of bluefish and rebuild the stock. Also, this rule makes technical amendments to the regulations implementing the Spiny Dogfish Fishery Management Plan. In addition, this rule makes technical amendments to crossreferencing regulations managing the American lobster fishery. Furthermore, NMFS informs the public of the approval by the Office of Management and Budget (OMB) of the collection-of-information requirements contained in this rule and publishes the OMB control numbers for these collections.

DATES: This rule is effective August 25, 2000.

ADDRESSES: Copies of Amendment 1, its Regulatory Impact Review, the Final Regulatory Flexibility Analysis (FRFA), and the Final Environmental Impact Statement (FEIS) are available from Daniel T. Furlong, Executive Director, Mid-Atlantic Fishery Management Council, Room 2115, Federal Building, 300 South New Street, Dover, DE 19901–6790.

Comments regarding the collection-of-information requirements contained in this final rule should be sent to Patricia Kurkul, Regional Administrator, NMFS, Northeast Regional Office, One Blackburn Drive, Gloucester, MA 01930, and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503 (Attention: NOAA Desk Officer).

FOR FURTHER INFORMATION CONTACT: Myles Raizin, Fishery Policy Analyst, 978–281–9104.

SUPPLEMENTARY INFORMATION: This final rule implements the measures to control fishing mortality of bluefish contained in Amendment 1, which were approved by NMFS on behalf of the Secretary of Commerce (Secretary) on July 29, 1999. Amendment 1 also addresses the new requirements of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), as amended by the Sustainable Fisheries Act. Two primary examples of these requirements are establishing a rebuilding plan to rebuild the bluefish stock from an overfished condition and describing and identifying essential fish habitat (EFH) for bluefish. As part of the rebuilding plan, Amendment 1 contains a new overfishing definition for the bluefish stock and a 9-year rebuilding schedule. The rebuilding plan was also approved by NMFS. The overfishing definition is not being codified in regulations. NMFS did not approve all of Amendment 1. NMFS disapproved the *de minimus* provision related to state allocations of the commercial quota, the portion of the essential fish habitat (EFH) section assessing the effects of fishing gear on bluefish EFH, and the description and analysis of fishing communities. All of the other measures contained in Amendment 1, as originally submitted, were approved. A proposed rule to implement these measures was published on August 23, 1999 (64 FR 45938).

The *de minimus* provision, which would have exempted states receiving less than 0.1 percent of the overall allocation from participating in the state allocation system, was disapproved because it is inconsistent with National Standard 1 of the Magnuson-Stevens Act, which requires that management measures prevent overfishing. This provision lacks any clear obligation on the part of the *de minimus* state to close its commercial bluefish fishery once its quota is harvested. This could result in a state's *de minimus* quota being rapidly exceeded and could result in overfishing of the bluefish stock.

A portion of the EFH provisions were disapproved because Amendment 1 failed to list and to consider adequately the potential adverse impacts of all fishing gear used in the waters described as EFH, particularly those waters under state jurisdiction. A significant portion of bluefish EFH occurs within state waters and the Council has indicated that there is some linkage between juvenile bluefish and submerged aquatic vegetation (SAV). Amendment 1 indicates that there are impacts to SAV from certain estuarine fishing gear. However, these gear are not listed in Section 2.2.3.6 (Fishing Gear Used Within the Bluefish Range), their potential impacts to bluefish EFH are not assessed in Section 2.2.3.7 (Fishing Impacts to Bluefish EFH), nor are the measures for managing potential adverse impacts considered in Section 2.2.4 (Options for Managing Adverse Effects from Fishing). These three sections of the EFH designation in the amendment were, therefore, disapproved.

The description and analysis of fishing communities was disapproved because the communities involved in the present day fishery are not sufficiently identified and the amendment does not describe or consider impacts on recreational fishing communities, such as Ocean City, Maryland, Virginia Beach, Virginia, or Oregon Inlet, North Carolina. The fishing communities section of Amendment 1 is based on the 1993 surveys of the Mid-Atlantic commercial fishing communities by McCay et al. Dependence of communities on the fishery is not assessed or considered, and the requirements of section 303(a)(9) and national standard 8 are not satisfied.

Details concerning the justification for and development of Amendment 1 and the implementing regulations were provided in the notice of availability (NOA) of Amendment 1 (64 FR 23260, April 30, 1999) and in the preamble to the proposed rule (64 FR 45938, August 23, 1999) and are not repeated here.

Approved Measures

Overfishing Definition and Rebuilding Schedule

Amendment 1 revises the definitions of overfishing and overfished in the FMP to include an F and biomass (B) component, respectively. Overfishing is defined as occurring when F is greater than the maximum F threshold, specified as F_{msy} = 0.4; and the bluefish stock is considered overfished when biomass is less than the minimum biomass threshold, specified as $1/2B_{msy}$ = 118.5 million (mil) lb (53,750 mt). The long-term F target is 90 percent of F_{msy} and the long-term B target is B_{msy}. The overfishing definition contained in Amendment 1 is not codified in regulations.

In accordance with § 648.160(a), the rebuilding plan provides for the bluefish stock to be rebuilt to B_{msy} over a 9-year period. In the first (1999) and second (2000) years of rebuilding, F remained/remains at the 1998 level, F=0.51; in years 3 through 5 (2001, 2002, and 2003), F will be reduced to F=0.41; and in years 6 through 9 (2004, 2005, 2006, and 2007), F will be reduced to F=0.31. Once rebuilding is achieved, F will be set at F=0.36, and continue to be that value as long as the stock is not overfished.

The Council's analysis of the impacts of the rebuilding program was based on the 9-year period for fishing years 1999 through 2007. Although the rebuilding plan was approved on July 29, 1999, NMFS did not implement the plan in 1999 in Federal waters because of delays in publishing this final rule. However, the states participating in the bluefish fishery took action for 1999 in accordance with the rebuilding schedule of Amendment 1 through the ASMFC and their own existing administrative programs for managing quotas in the commercial fishery for bluefish. Therefore, fishing year 2000 will be the second year of the rebuilding plan.

Annual Adjustment Process and Bluefish Monitoring Committee

This final rule establishes a Bluefish Monitoring Committee that is a joint committee of the Council and the Commission made up of staff representatives of the Mid-Atlantic, New England, and South Atlantic Fishery Management Councils, NMFS Northeast Regional Office, NMFS Northeast Fisheries Science Center, and the Commission. The Committee will review annually the best available data and recommend commercial (annual quota, minimum fish size, and minimum mesh size) and recreational (possession and size limits, and seasonal closures) measures designed to ensure that the F for bluefish for that given year is not exceeded.

EFH for Bluefish

Specific description and identification of EFH for bluefish that is contained in Section 2.2.2.2 of Amendment 1 was approved. The Council did not identify any habitat areas of particular concern for bluefish.

Recreational Harvest Limit and Commercial Quotas

This final rule establishes a procedure to specify an annual coastwide harvest level that is to be divided into two separate TAL values, one each for the recreational and commercial sectors. The relative shares of the annual coastwide harvest level for the recreational and commercial sectors are 83 and 17 percent, respectively. These values are based on the average catch composition of the two sectors during the 1981 through 1989 fisheries. The commercial TAL is further allocated to the states from Maine through Florida based on their percentage share of commercial landings for the period 1981 through 1989. However, this rule provides for an exception to the split of the annual coastwide harvest level between 83 percent of the recreational sector and 17 percent for the commercial sector. If 17 percent of the annual coastwide harvest level for a given year is less than 10.5 million lb (4.8 million kg) and the recreational fishery is not projected to land its harvest limit for the upcoming year, the commercial TAL may be allocated up to 10.5 million lb (4.8 million kg) (the average commercial landings for the period 1991 through 1996) as its quota, provided that the combination of the projected recreational landings and the commercial quota does not exceed the TAL. This strategy was adopted to ensure that commercial landings would not be unduly constrained under a low annual coastwide harvest level and a proportionally low recreational landing. The annual coastwide harvest limit will be set annually, based on the F values specified in the rebuilding schedule, and a target F=0.36, once rebuilding is achieved.

Allocations for the Commercial Fishery

For fishing year 1999, the states implemented a TAL of 36.84 million lb (16.71 million kg), consistent with the first year of the rebuilding plan approved under Amendment 1 (see § 648.160(a)). The commercial fishery was allocated 9.583 million lb (2.69 million kg). State-by-state allocation of the commercial TAL was based on the percentages listed in § 648.160(e)(1).

Framework Adjustment Process

In addition to the annual review and modifications to management measures associated with the Monitoring Committee process, Amendment 1 and the final rule set forth procedures allowing the Council to add or modify management measures through a streamlined public review process called a framework adjustment process. As such, management measures that have been identified in Amendment 1 could be implemented or adjusted at any time during the year following consideration of the measures and associated analyses during at least two Council meetings. The recommended management measures may then be implemented through a final rule without first publishing a proposed rule. The measure identified in Amendment 1 add gear restrictions, minimum and maximum fish size, permitting restrictions, changes in the recreational possession limit, recreational and commercial seasons, closed areas to address overfishing if it is deemed necessary in the future, description and identification of EFH and fishing gear management measures that impact EFH, and description and identification of habitat areas of particular concern.

Permit and Reporting Requirements

This final rule adds permit and reporting requirements that mirror similar requirements for other Northeast fisheries. These measures include new permitting requirements for Federal commercial vessels, charter and party boats, dealers, and vessel operators, and new reporting requirements for commercial and charter/party boat vessels and dealers. In addition to logbook reporting, dealers will be required to participate in the Northeast Interactive Voice Reporting (IVR) system to assure timely reports for purposes of quota monitoring.

Implementation of a commercial vessel permitting system represents a modification of the present system where individuals, and not vessels, are issued a permit to sell bluefish. Under bluefish regulations prior to Amendment 1, any person selling a

bluefish harvested from the exclusive economic zone is identified as a commercial fisherman and must have had a commercial fishing permit issued by a state or by NMFS that allows the sale of bluefish (i.e., the individual is licensed). The new management measure allows the sale of bluefish harvested in Federal waters only from vessels issued a Federal permit. The Council believes that the bulk of the bluefish that enters the market is harvested by commercial vessels. However, at Council and committee meetings, it has been noted that certain individuals, such as those who fished from a vessel they did not own or operate and then sold their catch, would be affected by the changeover to a vessel permit. These individuals would be subject to the recreational possession limit and would no longer be able to sell bluefish.

This rule also makes technical amendments to the regulations implementing the Spiny Dogfish FMP published on January 11, 2000, at 65 FR 1557 and whose effectiveness was delayed, first, to March 15, 2000 (65 FR 7461, February 15, 2000), second, to March 27, 2000 (65 FR 15110, March 21, 2000), and third, to April 3, 2000 (65 FR 16844, March 30, 2000). The final rule implementing the Spiny Dogfish FMP inadvertently removed the requirement contained in § 648.5 for surf clam and ocean quahog operators to obtain an operator permit. This final rule corrects the regulations in § 648.5(a) by adding surf clam and ocean quahog to the list of species identified.

In addition, the final rule published on December 6, 1999 (64 FR 68228), implemented measures to manage the American lobster fishery in the EEZ from Maine through North Carolina. The final regulations removed part 649 of 50 CFR Chapter VI. However, a crossreference to part 649 contained in § 648.5 was not removed at the time of implementation of the final rule. This final rule removes the crossreference to part 649.

Comments and Responses

Ten written comments on Amendment 1 were received by NMFS during the comment period established by the NOA for Amendment 1, which ended June 29, 1999. These comments were considered by NMFS before it partially approved Amendment 1 on July 29, 1999. Those comments received during the comment period on Amendment 1 are addressed here.

NMFS received one additional comment on the proposed rule during the comment period ending on October 7, 1999. Because the comment period was distinct from, and followed the comment period for the amendment, the comment received during the proposed rule period was not considered in NMFS' determination to partially approve Amendment 1. This comment is addressed here.

Comment 1: Two commenters considered the EFH portion of the Amendment to be overly broad and to exceed the intent of Congress. The commenters specifically cited the breadth of EFH designations, noting that EFH appeared to be designated in an arbitrary manner, over the range of the species, and included coastal state and estuarine waters. One commenter notes that NMFS and the Council should clarify and elaborate on its views as to how the Amendment relates to the EFH consultation and recommendation requirements.

Response: The Magnuson-Stevens Act defines EFH as those waters and substrate necessary to fish for spawning, breeding, feeding, or growth to maturity. The EFH regulations explain that this definition should be interpreted to include associated physical, chemical and biological properties that make the habitat appropriate for use by the species and may include aquatic areas historically used by fish where appropriate. The geographic extent of EFH for a species should be based on the habitat necessary to support a sustainable fishery and the managed species contribution to a healthy ecosystem, and can include state and Federal waters. The Council's EFH description and identification are consistent with these requirements. The information that the Council used for EFH designation was primarily species distributions and relative abundance data, which would be classified as ''Level 2'' information under the EFH regulations (50 CFR 600.815). The use of this data in determining EFH is fully explained within the text of the amendment. Upon approval of the EFH designations, Federal agencies must consult with NMFS regarding any action that may adversely affect EFH, and NMFS must provide conservation recommendations regarding any Federal or state agency action that would adversely affect EFH, pursuant to section 305(b) of the Magnuson-Stevens Act.

Comment 2: A commenter stated that the conservation and enhancement recommendations for non-fishing impacts to EFH that are provided in the Amendment are not based on the best available science, nor sufficiently supported. Two commenters contended that the recommended measures do not take into consideration current practices, are likely to be in conflict with measures being pursued under other regulatory programs, and may cause severe over-regulation. One commenter also stated that the Magnuson-Stevens Act did not empower the Fishery Management Councils to address non-fishing activities.

Response: NMFS disagrees that the conservation and enhancement recommendations for non-fishing impacts to EFH are not based on the best available science. The information presented in this section of the Amendment is well researched and substantiated. Discussions of actions with the potential to adversely affect EFH and accompanying conservation and enhancement recommendations were included to satisfy the requirements of section 303(a)(7) of the Magnuson-Stevens Act to ''identify other actions to encourage the conservation and enhancement of EFH.'' This information is exemplary and provided to assist non-fishing industries in avoiding impacts to EFH. The recommendations are neither posed as, nor meant to be, binding in nature. It is up to the discretion of the non-fishing industries and relevant regulatory agencies whether these or similar recommendations are needed or implemented.

Comment 3: Two commenters stated that the Amendment contains no meaningful threshold of significance or likelihood of adverse effect on habitat for non-fishing impacts. The commenters suggested that the consultation and conservation recommendation provisions of the Act will be burdensome and unworkable. One commenter contended that the consultation procedures will be redundant with the National Environmental Policy Act (NEPA), costly, and time consuming.

Response: The Magnuson-Stevens Act requires Federal action agencies to consult with NMFS on activities that may adversely affect EFH. ''Adverse effects,'' as defined at 50 CFR 600.810(a), means any impact that reduces the quality and/or quantity of EFH. Adverse effects may include, for example, direct effects through contamination or physical disruption, indirect effects such as loss of prey or reduction in species fecundity, and site-specific or habitat-wide impacts, including individual, cumulative, or synergistic consequences of actions. Only actions that may have a reasonably foreseeable adverse effect require consultation. The EFH regulations provide for streamlined consultation procedures in which the level of

consultation for any action is commensurate with the degree of potential impact to EFH. The EFH consultation requirements will be consolidated with other existing consultation and environmental review procedures wherever appropriate. This approach will ensure that EFH consultations do not duplicate other environmental reviews, yet still fulfill the statutory requirement for Federal actions to consider potential effects on EFH.

Comment 4: One commenter expressed concern regarding the inclusion of two frameworkable measures: (1) ''Description and identification of EFH,'' and (2) ''Description and identification of habitat areas of particular concern.'' The commenter is concerned that the framework process would allow changes to these measures to be published as a final rule without first publishing them as a proposed rule. The commenter states that non-fishing interests lack representation at Council meetings and, therefore, will not have an opportunity to comment on actions regarding EFH. The commenter asserts that the framework adjustment process for these two measures will foster inconsistencies in treatment among the different NMFS Regions and the Councils, thereby complicating the EFH consultation process. The commenter requests that the inclusion of these measures be delayed until revision of NMFS EFH interim final regulations and guidelines.

Response: The framework adjustment process requires the Councils, when making specifically allowed adjustments to the FMP, to develop and to analyze the actions over the span of at least two Council meetings. The Councils must provide the public with advance notice of the meetings through publication of the meeting agenda in the **Federal Register**, the proposals and the analysis, and provide an opportunity to comment on the proposals prior to, and at, the second Council meeting. Commenters may also submit written comments to the Council before or during the second Council meeting. Upon review of the analysis and public comment, the Council may recommend to the Administrator, Northeast Region, NMFS (Regional Administrator), that the measures be published as a final rule, if certain conditions are met. NMFS may either publish the measures as a final rule, or as a proposed rule if NMFS or the Council determines that additional public comment is needed. Within the guidelines, modifications to EFH and Habitat Areas of Particular Concern can be implemented in a expedited manner while providing ample notice and opportunity for comment by all stakeholders.

Comment 5: A commenter stated that the Amendment generally failed to address the potential for significant adverse impacts of the Amendment on non-fishing entities, specifically citing the requirements of NEPA and the Regulatory Flexibility Act.

Response: The description and identification of aquatic areas or substrate as EFH for a species or life stage does not carry with it any regulation or restriction of any activity. Following designation of EFH, NMFS, on behalf of the Secretary, is required to minimize, to the extent practicable, adverse impacts to EFH from fishing, and Federal action agencies are required to consult with NMFS on any action it authorizes, funds, or undertakes that may adversely affect EFH. NMFS' regulations of fishing in the EEZ or another action agency's regulation of non-fishing activities must comply with all applicable laws, such as the National Environmental Policy Act (NEPA) and the Regulatory Flexibility Act (RFA).

Comment 6: One commenter asserts that the Amendment is inconsistent with the Magnuson-Stevens Act national standards 1, 2, and 7.

Response: In regard to national standard 1, the Amendment utilizes a NMFS-certified overfishing definition developed by scientists from the Universities of Rhode Island and Connecticut. The overfishing definition was also adopted by the Bluefish Technical Monitoring Committee and approved by the Science and Statistical Committee of the Council. The rebuilding schedule will allow the stock of Atlantic bluefish to rebuild to a level of maximum sustainable yield in 9 years. The overfishing definition and rebuilding strategy are consistent with national standard 1. Because the overfishing definition for bluefish contains a $B_{threshold} = 1/2B_{msy}$ and $B_{target} = B_{msy}$, and the F_{target} is less than F_{msy}, the definition complies with national standard 1 guidelines. Also, the rebuilding schedule for bluefish is in compliance with national standard 1 because it is less than 10 years, but also takes into account the needs of fishing communities (especially in years 1 and 2 by not having a lower F value). The Amendment is consistent with national standard 2 since it relies on the best scientific information available.

The commenter does not elaborate upon the assertion that the Amendment violates national standard 7, so NMFS assumes, for the purpose of responding to their comment, that the commenter is alleging that the EFH consultation process is duplicative of other federally required consultation procedures. NMFS has determined that the Amendment is consistent with the Magnuson-Stevens Act, including national standard 7. Interagency consultations on Federal activities that may adversely affect EFH are required by the Magnuson-Stevens Act. As explained earlier, EFH consultations will be incorporated whenever practicable into existing review processes and be accomplished within existing process time frames. NMFS is committed to a consultation process that will be effective, efficient, and non-duplicative. The EFH regulations at 50 CFR 600.920 suggest that NMFS be consulted as early as possible in project planning so that appropriate conservation measures can minimize the potential for adverse effects to the EFH. The Amendment contains conservation recommendations that are appropriate for many Federal actions, and that can also serve as guidelines during project planning.

Comment 7: One commenter believed the Council should have adopted a 5-year rebuilding strategy in lieu of a 9-year strategy explaining that a 5-year plan would end overfishing and begin recovery as soon as possible. In addition, the 5-year rebuilding schedules evaluated by the Council show that the recovery alternatives generate similar and sometimes greater cumulative commercial revenues and cumulative recreational harvest limits compared to the preferred alternative.

Response: The Council believes and NMFS agrees that the 9-year strategy could mitigate short-term potential negative economic impacts to the recreational and, under certain scenarios, to the commercial sector. The Amendment will allow a transfer of up to 10.5 million lb (4.8 million kg) to the commercial sector if the recreational sector is not projected to take their share of the quota. In the years that this entire amount can be transferred, there is no difference in revenues to the commercial sector, because under any rebuilding strategy this sector would be able to fish the 10.5 million lb (4.8 million kg) cap. However, in years when the transfers cannot take place the commercial quotas would be substantially less under the 5-year plan as opposed to the 9-year plan. Recreational revenues are usually less for the first five years under the 5-year rebuilding plans, but much greater thereafter. NMFS recognizes that overfishing may occur in 1999 and 2000 although given recent landings information this seems highly unlikely. Recreational landings have been decreasing and were roughly half of the

present quota in 1997. However, NMFS believes that the Council, in adopting the 9-year strategy, is attempting to end overfishing as soon as possible while maintaining an optimum yield that will not unduly harm participants in the fishery.

Comment 8: Two commenters were concerned about the potential economic and social impacts of a minimum recreational size limit and effects of the size limit on communities.

Response: This is a moot issue since the Amendment does not implement a size limit, only a mechanism for doing so through the framework or the annual adjustment process. The required analysis would be completed at that time. Shore based fisheries are regulated by state actions that may complement Amendment 1, but are not directly regulated by the FMP.

Comment 9: One commenter raised concern with transferring the projected recreational surplus of up to 10.5 million pounds to the commercial quota. The commenter believes that this will increase the length of time required for the stock to rebuild.

Response: The Council adopted this strategy to ensure that commercial landings would not be unduly constrained under low allowable harvest levels and proportionally low recreational landings. Commercial and recreational bluefish industry representatives who attended Council and committee meetings on Amendment 1 support this compromise. The recreational and commercial quotas would be set annually based on the fishing mortality rates specified in the rebuilding schedule. This matter is discussed in length in the Initial Regulatory Flexibility Analysis (IRFA) summary contained in the classification section of the proposed rule.

Comment 10: One commenter had concerns regarding National Standard 8, which requires management measures to consider affects on communities, and section 303(a)(9), which requires a fishery impact statement.

Response: The description and analysis of fishing communities was disapproved because the communities involved in the present day fishery are not sufficiently identified and Amendment 1 does not describe or consider impacts on recreational fishing communities, such as Ocean City, Maryland, Virginia Beach, Virginia, or Oregon Inlet, North Carolina. The fishing communities section of Amendment 1 is based on the 1993 surveys of the Mid-Atlantic commercial fishing communities by McCay et al. Dependence of communities on the fishery is not assessed or considered, and the requirements of Section 303(a)(9) and National Standard 8 have not been satisfied. However, NMFS informed the Council of these deficiencies of the Amendment and expects the Council to provide this type of analysis in the future.

Comment 11: One commenter believed that charter/party vessels should not be subject to the monthly vessel trip report (VTR) requirements due to the existing Marine Recreational Fisheries Statistics Survey and the apparent lack of rationale for requiring monthly logbooks. In addition, the commenter states that hull identification numbers should be included as a required element of permits and reporting logbooks, and that Amendment 1 should not be inconsistent with the Atlantic Coastal Cooperative Statistics Program (ACCSP) system.

Response: The VTRs for charter/party vessels are currently necessary to ensure appropriate quota monitoring in fisheries. The VTR is an established system of mandatory reporting familiar to and used by the Council for quota and total allowable catch monitoring purposes. This reporting requirement will help satisfy the required provision of the Magnuson-Stevens Act to describe and to quantify trends in landings of the commercial, recreational and charter fishing sectors. Hull identification numbers, either U.S. Coast Guard (USCG) documentation number or state registration number, are required information on VTRs, and this will be clarified in the regulatory text. While the ACCSP may establish preferable monitoring systems, the program is not operational in the region. Until such time as the ACCSP establishes an appropriate monitoring system, the VTRs are necessary. The data collection aspects of Amendment 1 are subject to the framework adjustment process to allow for conversion to the ACCSP program in the future.

Changes From the Proposed Rule

In § 648.4(a)(8)(ii), the phrase ''to fish for bluefish'' was expanded to read ''to fish for, possess, or land Atlantic bluefish in or from the EEZ.''

In § 648.7, paragraph (b) was revised to add spiny dogfish to the list of species for which permit conditions apply. The final rule implementing the Spiny Dogfish FMP became effective on April 3, 2000, after the proposed rule for Amendment 1 to the Bluefish FMP was published.

Several paragraphs in § 648.7 were modified to make it easier for the public to understand which dealers are affected by the reporting requirements specified in that part. The current mandatory dealer reporting system was incorporated into each fishery management plan through plan amendments that occurred over a period of years. As amendments were implemented this section listed by species the dealers subject to this requirement. Now that the requirement has been incorporated into all of the Northeast Region fishery management plans, it is not necessary to list dealer permits by species. Therefore, § 648.7(a)(1)(i) has been modified to show it applies to ''All dealers issued a dealer permit under this part, with the exception of those utilizing the surf clam or ocean quahog dealer permit;'' § 648.7(a)(3)(i) has been modified to show that it applies to ''All dealers issued a dealer permit under this part.''

For the same reason, a similar modification was made to § 648.7(b)(1)(i) to clarify that the vessel reporting requirement applies to ''The owner or operator of any vessel issued a permit under this part.''

In § 648.14(w)(2), the phrase ''Atlantic bluefish taken from a fishing vessel'' was expanded to read ''Atlantic bluefish taken from a fishing vessel that were harvested in or from the EEZ.'' In § 648.14(w)(3), the phrase ''dealer or transferee has a dealer permit issued under § 648.6(a)'' was replaced by ''vessel has a valid bluefish permit issued under § 648.4(a)(8)(i).'' The prohibition at § 648.14(w)(7) was removed and replaced by ''To purchase or otherwise receive for a commercial purpose bluefish harvested from the EEZ after the effective date of the notification published in the **Federal Register** stating that the commercial quota has been harvested.'' A new paragraph was added at § 648.14(w)(8) that prohibits dealers from purchasing bluefish from federally-permitted vessels after publication of a notification stating that the commercial quota has been harvested.

Section 648.160(d) is revised to indicate that NMFS will only issue one proposed rule and final rule annually in the **Federal Register** to include both the commercial and recreational measures. The proposed rule for Amendment 1 indicated that a separate proposed and final rule would be issued annually for recreational fishing measures.

NOAA codifies its OMB control numbers for information collection at 15 CFR part 902. Part 902 collects and displays the control numbers assigned to information collection requirements of NOAA by OMB pursuant to the Paperwork Reduction Act (PRA). This final rule codifies OMB control number

0648–0202 for §§ 648.91 through 648.94, and § 648.96.

Under NOAA Administrative Order 205–11, dated December 17, 1990, the Under Secretary for Oceans and Atmosphere has delegated to the Assistant Administrator for Fisheries, NOAA, the authority to sign material for publication in the **Federal Register**.

Classification

NMFS determined on July 29, 1999, that Amendment 1 that this rule implements is consistent with the Magnuson-Stevens Act and other applicable laws, with the exception of the de minimus provision, the fishing communities section, and the portion of the EFH section dealing with the effect of fishing gear on bluefish EFH.

This rule has been determined to be significant for the purposes of Executive Order 12866.

The Council prepared an FEIS for this Amendment; an NOA for the FEIS was published in the **Federal Register** on June 25, 1999. NMFS determined upon review of Amendment 1 and its accompanying FEIS and public comments that approval and implementation of Amendment 1 is environmentally preferable to the status quo. The FEIS demonstrates that it contains management measures able to halt overfishing and to rebuild the Atlantic bluefish stock; protect marine mammals and endangered species; provide economic and social benefits to the fishing industry in the long term; and contribute to better balance in the ecosystem in terms of the Atlantic bluefish resource.

In compliance with the RFA, the Council prepared and NMFS adopted an IRFA contained in Amendment 1 that describes the economic impacts of the proposed rule, if adopted, on small entities. The final regulatory flexibility analysis (FRFA) consists of the IRFA, public comments and responses thereto, the analysis of impacts and alternatives in Amendment 1 to the Atlantic Bluefish FMP, a description of the need for, and objectives of the rule found in the preamble of the proposed rule, and a summary of the impacts on small entities as published in the classification section of the proposed rule, all of which are not repeated here. A summary of the FRFA is as follows:

Need for and Objectives of the Rule

NMFS is issuing this final rule to implement approved management measures contained in Amendment 1 to the Bluefish FMP. The purpose of this rule is to control fishing mortality of bluefish and begin rebuilding the stock.

Public Comments

There were several public comments submitted during the public comment period for the proposed rule that related to impacts on small entities, including comments 5 and 8. The public comments and responses thereto are contained in the preamble to this rule. No changes were made to the proposed rule.

Number of Small Entities

In the full permit year of 1998, there were 1,126 Federal bluefish permits issued to individuals. All of these individuals readily fall within the definition of a small business. NMFS estimated that 190 Federal permits held by individuals are associated with commercial vessel ownership. The number of recreational vessels that sell their catch and could apply for a vessel permit is unknown.

Projected Reporting and Recordkeeping Requirements

This rule would add bluefish permit and reporting requirements that mirror similar requirements for other Northeast fisheries. These measures include new permitting requirements for Federal commercial bluefish vessels, bluefish charter and party boats, bluefish dealers, and bluefish vessel operators, and new reporting requirements for bluefish dealers and owners or operators of commercial bluefish vessels and bluefish charter and party boats. In addition to logbook reporting, dealers would be required to participate in the IVR system to assure timely reports for purposes of quota monitoring.

Cost of Compliance

The alternatives concerning vessel and dealer permitting and reporting have no effect on revenues and represent a minute portion of the cost of doing business. The Council estimated that 249 new vessel permit applicants, 500 new charter/partyboat vessel permit applicants, and 97 dealers would each spend $7.50 to apply for a permit and $20.00 per year for reporting requirements. In addition, no special knowledge is required to fill out the permit application. No additional costs of compliance would result from the implementation of the preferred or other alternative.

Steps Taken to Minimize Economic Impacts

This final rule minimizes economic impacts on small entities by implementing a 9-year rebuilding plan. Rebuilding may occur faster if fishing for bluefish in Federal waters were prohibited altogether. However, the Council recommended and NMFS implements through this rule a 9-year rebuilding program that takes into account the economic needs of fishery participants to continue some level of fishing for bluefish while also meeting the statutory requirement to rebuild the fishery in as short a time frame as possible but within 10 years.

Reason for Selecting Alternatives in the Rule and Reasons for Rejecting Other Alternatives

The alternative rebuilding schedules were rejected, because they would not have provided the same stability in projected yields, and would have resulted in greater short-term economic losses for the commercial sector, compared to the alternative implemented by this rule.

The quota allocation between the commercial and recreational fisheries implemented by this rule was chosen because it was based on time period (1981–1989) that reflects the composition of the fishery when bluefish stock abundance was fairly high and stable. The recreational harvest limit of 10 fish was chosen in order to keep recreational harvest within its allocation over the course of the fishing year. The quota allocation periods other than 1981–1989 that were evaluated for the basis of any split between the commercial and recreational sectors were either too short (e.g., 1985–1989) or were based partly on catches attained during periods of relatively low stock abundance (e.g., 1981–1993) ; therefore they were rejected.

The commercial vessel, charter/party boat and dealer permitting and reporting requirements implemented by this rule were chosen over the status quo (individual permits) so that NMFS will be better able to monitor the quota, to close the commercial fishery when the quota is reached, and evaluate harvest capacity. The Council also considered the status quo alternative of continuing the issuance of permits to individuals. Although this would mitigate the economic impacts of the proposed vessel permitting scheme, the Council notes that under individual permitting, the monitoring of the quota system would likely be undermined, because it would be very difficult to contact individuals with timely notifications or obtain information required for quota reports. Implementation and enforcement of commercial closures and commercial minimum fish sizes that are essential to managing the fishery would be compromised by the continued permitting of individuals. Furthermore, harvesting capacity or fishing power could not be evaluated under a regime

of individual permits. The ability to monitor and to enforce commercial fishing quotas is essential to meeting the agency's fishery conservation and management responsibilities under the Magnuson-Stevens Act.

Paperwork Reduction Act

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB control number.

This rule contains 8 new collection-of-information requirements subject to the Paperwork Reduction Act. These collection-of-information requirements have been approved by the OMB, and the OMB control numbers and public reporting burden are listed as follows:

Bluefish vessel permits, OMB control number 0648–0202 (30 minutes/response).

Bluefish dealer permits, OMB control number 0648–0202 (12 minutes/response).

Bluefish vessel identification, OMB control number 0648–0202 (45 minutes/response).

Employment section of the Processed Products Report, OMB control number 0648–0202 (2 minutes/response).

State quota transfer applications, OMB control number 0648–0202 (60 minutes/response). Vessel trip reports, OMB control number 0648–0212 (5 minutes/response).

Dealer reports through IVR system, OMB control number 0648–0229 (4 minutes/response).

Dealer reports for NOAA Form 30–80, OMB control number 0648–0229 (2 minutes/response).

The estimated response time includes the time needed for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding these reporting burden estimates or any other aspect of the collection-of-information, including suggestions for reducing the burden, to NMFS and OMB (see **ADDRESSES**).

List of Subjects

15 CFR Part 902

Reporting and recordkeeping requirements.

50 CFR Part 648

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: July 17, 2000.

Andrew A. Rosenberg,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 15 CFR part 902, chapter IX, and 50 CFR part 648, chapter VI, are amended as follows:

15 CFR Chapter IX

PART 902—NOAA INFORMATION COLLECTION REQUIREMENTS UNDER THE PAPERWORK REDUCTION ACT; OMB CONTROL NUMBERS

1. The authority citation for part 902 continues to read as follows:

Authority: 44 U.S.C. 3501 *et seq.*

2. In § 902.1, the table in paragraph (b) under 50 CFR is amended by revising the entry for § 648.7 and adding a new entry for § 648.160 to read as follows:

§ 902.1 OMB control numbers assigned pursuant to the Paperwork Reduction Act.

* * * * *

(b) * * *

CFR part or section where the information collection requirement is located	Current OMB control number (all numbers begin with 0648–)
* * * * *	
50 CFR	
* * * * *	
648.7	–0018, –0202, –0212, and –0229
* * * * *	
648.160	–0202
* * * *	

50 CFR Chapter VI

PART 648—FISHERIES OF THE NORTHEASTERN UNITED STATES

1. The authority citation for part 648 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. In § 648.2, the definition for ''Bluefish Committee'' is removed and a new definition for ''Bluefish Monitoring Committee'' is added in alphabetical order to read as follows:

§ 648.2 Definitions.

* * * * *

Bluefish Monitoring Committee means a committee made up of staff representatives of the Mid-Atlantic Fishery Management Council, the New England Fishery Management Council, and South Atlantic Fishery Management Council, the NMFS Northeast Regional Office, the NMFS Northeast Fisheries Science Center, and the Commission. The Mid-Atlantic Fishery Management Council's Executive Director or a designee chairs the committee.

* * * * *

3. In § 648.4, paragraphs (a)(8), (b) and (c)(2)(i) are revised, and paragraph (c)(3) is removed as follows:

§ 648.4 Vessel permits.

(a) * *ensp;*

(8) *Atlantic bluefish vessels.* (i) *Commercial.* Any vessel of the United States including party and charter boats not carrying passengers for hire, that fishes for, possesses, or lands Atlantic bluefish in or from the EEZ in excess of the recreational possession limit specified at § 648.164 must have been issued and carry on board a valid commercial bluefish vessel permit.

(ii) *Party and charter vessels.* Any party or charter boat must have been issued and carry on board a valid party or charter boat permit to fish for, possess, or land Atlantic bluefish in or from the EEZ if it is carrying passengers for hire. Persons on board such vessel must observe the possession limits established pursuant to § 648.164, and the prohibitions on sale specified in § 648.14(w).

(b) *Permit conditions.* Any person who applies for a fishing permit under this section must agree as a condition of the permit that the vessel and the vessel's fishing activity, catch, and pertinent gear (without regard to whether such fishing occurs in the EEZ or landward of the EEZ, and without regard to where such fish or gear are possessed, taken or landed), are subject to all requirements of this part, unless exempted from such requirements under this part. All such fishing activities, catch, and gear will remain subject to all applicable state requirements. Except as otherwise provided in this part, if a requirement of this part and a management measure required by a state or local law differ, any vessel owner permitted to fish in the EEZ for any species managed under this part must comply with the more restrictive requirement. Owners and operators of vessels fishing under the terms of a summer flounder moratorium, scup moratorium, black sea bass moratorium or bluefish commercial vessel permit must also agree not to land summer flounder, scup, black sea bass, spiny dogfish, or bluefish, respectively, in any state after NMFS has published a notification in the **Federal Register** stating that the commercial quota for that state or period has been harvested and that no commercial quota is available for the

respective species. A state not receiving an allocation of summer flounder, scup, black sea bass, spiny dogfish, or bluefish, either directly or through a coastwide allocation, is deemed to have no commercial quota available. Owners or operators fishing for surf clams and ocean quahogs within waters under the jurisdiction of any state that requires cage tags are not subject to any conflicting Federal minimum size or tagging requirements. If a surf clam and ocean quahog requirement of this part differs from a surf clam and ocean quahog management measure required by a state that does not require cage tagging, any vessel owners or operators permitted to fish in the EEZ for surf clams and ocean quahogs must comply with the more restrictive requirement while fishing in state waters. However, surrender of a surf clam and ocean quahog vessel permit by the owner by certified mail addressed to the Regional Administrator allows an individual to comply with the less restrictive state minimum size requirement, as long as fishing is conducted exclusively within state waters. If the commercial black sea bass quota for a period is harvested and the coast is closed to the possession of black sea bass north of 35°15.3' N. lat., any vessel owners that hold valid commercial permits for both the black sea bass and the NMFS Southeast Region Snapper-Grouper fisheries may surrender their moratorium Black Sea Bass permit by certified mail addressed to the Regional Administrator and fish pursuant to their Snapper-Grouper permit, as long as fishing is conducted exclusively in waters, and landings are made, south of 35°15.3' N. lat. A moratorium permit for the black sea bass fishery that is voluntarily relinquished or surrendered will be reissued upon the receipt of the vessel owner's written request after a minimum period of 6 months from the date of cancellation.

(c) * * *

(2) * * *

(i) An application for a permit issued under this section, in addition to the information specified in paragraph (c)(1) of this section, also must contain at least the following information, and any other information required by the Regional Administrator: Vessel name, owner name or name of the owner's authorized representative, mailing address, and telephone number; USCG documentation number and a copy of the vessel's current USCG documentation or, for a vessel not required to be documented under title 46 U.S.C., the vessel's state registration number and a copy of the current state registration; a copy of the vessel's current party/charter boat license (if applicable), home port and principal port of landing, length overall, GRT, NT, engine horsepower, year the vessel was built, type of construction, type of propulsion, approximate fish hold capacity, type of fishing gear used by the vessel, number of crew, number of party or charter passengers licensed to be carried (if applicable), permit category, if the owner is a corporation, a copy of the current Certificate of Incorporation or other corporate papers showing the date of incorporation and the names of the current officers of the corporation, and the names and addresses of all shareholders owning 25 percent or more of the corporation's shares; if the owner is a partnership, a copy of the current Partnership Agreement and the names and addresses of all partners; if there is more than one owner, the names of all owners having a 25-percent interest or more; and permit number of any current or, if expired, previous Federal fishery permit issued to the vessel.

* * * * *

4. In § 648.5, paragraph (a) is revised to read as follows:

§ 648.5 Operator permits.

(a) *General.* Any operator of a vessel fishing for or possessing sea scallops in excess of 40 lb (18.1 kg), NE multispecies, monkfish, surf clam, ocean quahog, mackerel, squid, butterfish, scup, black sea bass, spiny dogfish, or bluefish, harvested in or from the EEZ, or issued a permit for these species under this part, must have been issued under this section and carry on board, a valid operator's permit. An operator's permit issued pursuant to part 697 of this chapter satisfies the permitting requirement of this section. This requirement does not apply to operators of recreational vessels.

* * * * *

5. In § 648.6, paragraph (a) is revised to read as follows:

§ 648.6 Dealer/processor permits.

(a) *General.* All NE multispecies, monkfish, sea scallop, summer flounder, surf clam, ocean quahog, mackerel, squid, butterfish, scup, black sea bass, spiny dogfish, or bluefish dealers and surf clam and ocean quahog processors must have been issued under this section, and have in their possession, a valid permit for these species.

* * * * *

6. In § 648.7, in paragraphs (a)(1)(i) and (a)(3)(i) the first sentence is revised and in paragraph (b)(1)(i) the heading is removed and (b)(1)(i) is revised as follows:

§ 648.7 Record keeping and reporting requirements.

(a) * * *

(1) * * *

(i) All dealers issued a dealer permit under this part, with the exception of those utilizing the surf clam or ocean quahog dealer permit, must provide: Dealer name and mailing address; dealer permit number; name and permit number or name and hull number (USCG documentation number or state registration number, which ever is applicable) of vessels from which fish are landed or received; trip identifier for a trip from which fish are landed or received; dates of purchases; pounds by species (by market category, if applicable); price per pound by species (by market category, if applicable) or total value by species (by market category, if applicable); port landed; signature of person supplying the information; and any other information deemed necessary by the Regional Administrator. * * *

* * * * *

(3) * * *

(i) All dealers issued a dealer permit under this part, with the exception of those processing only surf clams or ocean quahogs, must complete the ''Employment Data'' section of the Annual Processed Products Report; completion of the other sections of that form is voluntary. * * *

* * * * *

(b) * * *

(1) * * *

(i) The owner or operator of any vessel issued a permit under this part must maintain on board the vessel, and submit, an accurate daily fishing log report for all fishing trips, regardless of species fished for or taken, on forms supplied by or approved by the Regional Administrator. If authorized in writing by the Regional Administrator, a vessel owner or operator may submit reports electronically, for example by using a VMS or other media. With the exception of those vessel owners or operators fishing under a surf clam or ocean quahog permit, at least the following information and any other information required by the Regional Administrator must be provided: Vessel name, USCG documentation number (or state registration number, if undocumented); permit number; date/time sailed; date/time landed; trip type; number of crew; number of anglers (if a charter or party boat); gear fished; quantity and size of gear; mesh/ring size; chart area fished; average depth; latitude/longitude (or loran station and bearings); total hauls per area fished; average tow time duration; pounds by species (or count,

if a party or charter vessel) of all species landed or discarded; dealer permit number; dealer name; date sold; port and state landed; and vessel operator's name, signature, and operator's permit number (if applicable).

* * * * *

7. In § 648.11 the first sentence of paragraph (a) and paragraph (e) are revised to read as follows:

§ 648.11 At-sea sampler/observer coverage.

(a) The Regional Administrator may request any vessel holding a permit for Atlantic sea scallops, or NE multispecies, or monkfish, or Atlantic mackerel, squid, butterfish, or scup, or black sea bass, or bluefish, or spiny dogfish, or a moratorium permit for summer flounder, to carry a NMFS-approved sea sampler/observer. * * *

* * * * *

(e) The owner or operator of a vessel issued a summer flounder moratorium permit, or a scup moratorium permit, or a black sea bass moratorium permit, or a bluefish permit, or a spiny dogfish permit, if requested by the sea sampler/observer also must:

(1) Notify the sea sampler/observer of any sea turtles, marine mammals, summer flounder, scup, or black sea bass, or bluefish, or spiny dogfish, or other specimens taken by the vessel.

(2) Provide the sea sampler/observer with sea turtles, marine mammals, summer flounder, scup, or black sea bass, or bluefish, or spiny dogfish, or other specimens taken by the vessel.

* * * * *

8. In § 648.12, the introductory text is revised to read as follows:

§ 648.12 Experimental fishing.

The Regional Administrator may exempt any person or vessel from the requirements of subparts B (Atlantic mackerel, squid, and butterfish), D (sea scallop), E (surf clam and ocean quahog), F (NE multispecies and monkfish), G (summer flounder), H (scup), I (black sea bass), J (bluefish), K (spiny dogfish), of this part for the conduct of experimental fishing beneficial to the management of the resources or fishery managed under that subpart. The Regional Administrator shall consult with the Executive Director of the Council regarding such exemptions for the Atlantic mackerel, squid, and butterfish, the summer flounder, the scup, the black sea bass, the spiny dogfish, and the bluefish fisheries.

* * * * *

9. In § 648.14, paragraphs (w)(1) through (5) are revised and paragraphs (w)(6), (w)(7), (w)(8), and (x)(9) are added to read as follows:

* * * * *

§ 648.14 Prohibitions.

(w) * * *

(1) Possess in or harvest from the EEZ, Atlantic bluefish, in excess of the daily possession limit found at § 648.164, unless the vessel is issued a valid Atlantic bluefish vessel permit under § 648.4(a)(8)(i) and the permit is on board the vessel and has not been surrendered, revoked, or suspended.

(2) Purchase, possess or receive for a commercial purpose, or attempt to purchase, possess, or receive for a commercial purpose, in the capacity of a dealer, except solely for transport on land, Atlantic bluefish taken from a fishing vessel that were harvested in or from the EEZ unless issued, and in possession of, a valid Atlantic bluefish fishery dealer permit issued under § 648.6(a).

(3) Sell, barter, trade or transfer, or attempt to sell, barter, trade or otherwise transfer, other than for transport, Atlantic bluefish that were harvested in or from the EEZ, unless the vessel has been issued a valid bluefish permit under § 648.4(a)(8)(i).

(4) Land Atlantic bluefish for sale in a state after the effective date of the notification in the **Federal Register** , pursuant to § 648.161(b), which notifies permit holders that the commercial quota is no longer available in that state.

(5) Carry passengers for hire, or carry more than three crew members for a charter boat or five crew members for a party boat, while fishing commercially pursuant to an Atlantic bluefish permit issued under § 648.4(a)(8).

(6) Land Atlantic bluefish for sale after the effective date of the notification in the **Federal Register** pursuant to § 648.161(a), which notifies permit holders that the Atlantic bluefish fishery is closed.

(7) To purchase or otherwise receive for a commercial purpose bluefish harvested from the EEZ after the effective date of the notification published in the **Federal Register** stating that the commercial quota has been harvested.

(8) To purchase or otherwise receive for a commercial purpose bluefish harvested by a federally permitted vessel after the effective date of the notification published in the **Federal Register** stating that the commercial quota has been harvested.

(x) * * *

(9) All bluefish possessed on board a party or charter vessel issued a permit under § 648.4(a)(8)(ii) are deemed to have been harvested from the EEZ.

10. Subpart J is revised to read as follows:

Subpart J—Management Measures for the Atlantic Bluefish Fishery

Sec.

§ 648.160 Catch quotas and other restrictions.

The fishing year is from January 1 through December 31.

(a) *Annual review.* The Bluefish Monitoring Committee will review the following data, subject to availability, on or before August 15 of each year to determine the total allowable level of landings (TAL) and other restrictions necessary to achieve a target fishing mortality rate (F) of 0.51 in 1999 and 2000; a target F of 0.41 in 2001, 2002, and 2003; a target F of 0.31 in 2004, 2005, 2006, and 2007; and a target F of 0.36 thereafter: Commercial and recreational catch data; current estimates of fishing mortality; stock status; recent estimates of recruitment; virtual population analysis results; levels of noncompliance by fishermen or individual states; impact of size/mesh regulations; sea sampling data; impact of gear other than otter trawls and gill nets on the mortality of bluefish; and any other relevant information.

(b) *Recommended measures.* Based on the annual review, the Bluefish Monitoring Committee shall recommend to the Coastal Migratory Committee of the Council and the Commission the following measures to assure that the F specified in paragraph (a) of this section will not be exceeded:

(1) A TAL set from a range of 0 to the maximum allowed to achieve the specified F.

(2) Commercial minimum fish size.

(3) Minimum mesh size.

(4) Recreational possession limit set from a range of 0 to 20 bluefish to achieve the specified F.

(5) Recreational minimum fish size.

(6) Recreational season.

(7) Restrictions on gear other than otter trawls and gill nets.

(c) *Allocation of the TAL*—(1) *Recreational harvest limit.* A total of 83 percent of the TAL will be allocated to the recreational fishery as a harvest limit.

(2) *Commercial quota.* A total of 17 percent of the TAL will be allocated to the commercial fishery as a quota. If 17 percent of the TAL is less than 10.5 million lb (4.8 million kg) and the

recreational fishery is not projected to land its harvest limit for the upcoming year, the commercial fishery may be allocated up to 10.5 million lb (4.8 million kg) as its quota, provided that the combination of the projected recreational landings and the commercial quota does not exceed the TAL.

(d) *Annual fishing measures*. The Council's Coastal Migratory Committee shall review the recommendations of the Bluefish Monitoring Committee. Based on these recommendations and any public comment, the Coastal Migratory Committee shall recommend to the Council measures necessary to assure that the applicable specified F will not be exceeded. The Council shall review these recommendations and, based on the recommendations and any public comment, recommend to the Regional Administrator by September 1 measures necessary to assure that the applicable specified F will not be exceeded. The Council's recommendations must include supporting documentation, as appropriate, concerning the environmental, economic, and social impacts of the recommendations. The Regional Administrator shall review these recommendations and any recommendations of the Commission. After such review, NMFS will publish a proposed rule in the **Federal Register** on or about October 15, to implement a coastwide commercial quota and recreational harvest limit and additional management measures for the commercial and recreational fisheries to assure that the applicable specified F will not be exceeded. After considering public comment, NMFS will publish a final rule in the **Federal Register**.

(e) *Distribution of annual commercial quota*. (1) The annual commercial quota will be distributed to the states, based upon the following percentages:

ANNUAL COMMERCIAL QUOTA SHARES

STATE	PERCENTAGE
ME	0.6685
NH	0.4145
MA	6.7167
RI	6.8081
CT	1.2663
NY	10.3851
NJ	14.8162
DE	1.8782
MD	3.0018
VA	11.8795
NC	32.0608
SC	0.0352
GA	0.0095
FL	10.0597
TOTAL	100.0000

Note: The ''Total'' does not actually add up to 100.0000 because of rounding error.

(2) All bluefish landed for sale in a state shall be applied against that state's annual commercial quota, regardless of where the bluefish were harvested. Any overages of the commercial quota landed in any state will be deducted from that state's annual quota for the following year.

(f) *Quota transfers and combinations*. Any state implementing a state commercial quota for bluefish may request approval from the Regional Administrator to transfer part or all of its annual quota to one or more states. Two or more states implementing a state commercial quota for bluefish may request approval from the Regional Administrator to combine their quotas, or part of their quotas, into an overall regional quota. Requests for transfer or combination of commercial quotas for bluefish must be made by individual or joint letter(s) signed by the principal state official with marine fishery management responsibility and expertise, or his/her previously named designee, for each state involved. The letter(s) must certify that all pertinent state requirements have been met and identify the states involved and the amount of quota to be transferred or combined.

(1) Within 10 working days following the receipt of the letter(s) from the states involved, the Regional Administrator shall notify the appropriate state officials of the disposition of the request. In evaluating requests to transfer a quota or combine quotas, the Regional Administrator shall consider whether:

(i) The transfer or combination would preclude the overall annual quota from being fully harvested.

(ii) The transfer addresses an unforeseen variation or contingency in the fishery.

(iii) The transfer is consistent with the objectives of the Bluefish FMP and Magnuson-Stevens Act.

(2) The transfer of quota or the combination of quotas will be valid only for the calendar year for which the request was made and will be effective upon the filing by NMFS of a notification of the approval of the transfer or combination with the Office of the Federal Register.

(3) A state may not submit a request to transfer quota or combine quotas if a request to which it is party is pending before the Regional Administrator. A state may submit a new request when it receives notification that the Regional Administrator has disapproved the previous request or when notification of the approval of the transfer or combination has been published in the **Federal Register**.

(4) If there is a quota overage among states involved in the combination of quotas at the end of the fishing year, the overage will be deducted from the following year's quota for each of the states involved in the combined quota. The deduction will be proportional, based on each state's relative share of the combined quota for the previous year. A transfer of quota or combination of quotas does not alter any state's percentage share of the overall quota specified in paragraph (e)(1) of this section.

(g) Based upon any changes in the landings data available from the states for the base years 1981-89, the Commission and the Council may recommend to the Regional Administrator that the states' shares specified in paragraph (e)(1) of this section be revised. The Council's and the Commission's recommendation must include supporting documentation, as appropriate, concerning the environmental and economic impacts of the recommendation. The Regional Administrator shall review the recommendation of the Commission and the Council. After such review, NMFS will publish a proposed rule in the **Federal Register** to implement a revision in the state shares. After considering public comment, NMFS will publish a final rule in the **Federal Register** to implement the hanges in allocation.

§ 648.161 Closures.

(a) *EEZ closure*. NMFS shall close the EEZ to fishing for bluefish by commercial vessels for the remainder of the calendar year by publishing notification in the **Federal Register** if the Regional Administrator determines that the inaction of one or more states will cause the applicable F specified in § 648.160(a) to be exceeded, or if the commercial fisheries in all states have been closed. NMFS may reopen the EEZ if earlier inaction by a state has been remedied by that state, or if commercial fisheries in one or more states have been reopened without causing the applicable specified F to be exceeded.

(b) *State quotas*. The Regional Administrator will monitor state commercial quotas based on dealer reports and other available information and shall determine the date when a state commercial quota will be harvested. NMFS shall publish notification in the **Federal Register** advising a state that, effective upon a specific date, its commercial quota has

been harvested and notifying vessel and dealer permit holders that no commercial quota is available for landing bluefish in that state.

§ 648.162 Minimum fish sizes.

If the Council determines through its annual review or framework adjustment process that minimum fish sizes are necessary to assure that the fishing mortality rate is not exceeded, or to attain other FMP objective, such measures will be enacted through the procedure specified in § 648.160(d) or 648.165.

§ 648.163 Gear restrictions.

If the Council determines through its annual review or framework adjustment process that gear restrictions are necessary to assure that the fishing mortality rate is not exceeded, or to attain other FMP objectives, such measures will be enacted through the procedure specified in §§ 648.160(d) or 648.165.

§ 648.164 Possession restrictions.

(a) No person shall possess more than 10 bluefish in, or harvested from, the EEZ unless that person is the owner or operator of a fishing vessel issued a bluefish commercial permit or is issued a bluefish dealer permit. Persons aboard a vessel that is not issued a bluefish commercial permit are subject to this possession limit. The owner, operator, and crew of a charter or party boat issued a bluefish commercial permit are not subject to the possession limit when not carrying passengers for hire and when the crew size does not exceed five for a party boat and three for a charter boat.

(b) Bluefish harvested by vessels subject to the possession limit with more than one person on board may be pooled in one or more containers. Compliance with the daily possession limit will be determined by dividing the number of bluefish on board by the number of persons on board, other than the captain and the crew. If there is a violation of the possession limit on board a vessel carrying more than one person, the violation shall be deemed to have been committed by the owner and operator.

§ 648.165 Framework specifications.

(a) *Within season management action*. The Council may, at any time, initiate action to add or adjust management measures if it finds that action is necessary to meet or be consistent with the goals and objectives of the Bluefish FMP.

(1) *Adjustment process*. After a management action has been initiated, the Council shall develop and analyze appropriate management actions over the span of at least two Council meetings. The Council shall provide the public with advance notice of the availability of both the proposals and the analysis and the opportunity to comment on them prior to and at the second Council meeting. The Council's recommendation on adjustments or additions to management measures must come from one or more of the following categories: Minimum fish size, maximum fish size, gear restrictions, gear requirements or prohibitions, permitting restrictions, recreational possession limit, recreational season, closed areas, commercial season, description and identification of essential fish habitat (EFH), fishing gear management measures to protect EFH, designation of habitat areas of particular concern within EFH, and any other management measures currently included in the FMP.

(2) *Council recommendation*. After developing management actions and receiving public testimony, the Council shall make a recommendation to the Regional Administrator. The Council's recommendation must include supporting rationale and, if management measures are recommended, an analysis of impacts and a recommendation to the Regional Administrator on whether to issue the management measures as a final rule. If the Council recommends that the management measures should be issued as a final rule, the Council must consider at least the following factors and provide support and analysis for each factor considered:

(i) Whether the availability of data on which the recommended management measures are based allows for adequate time to publish a proposed rule, and whether regulations have to be in place for an entire harvest/fishing season;

(ii) Whether there has been adequate notice and opportunity for participation by the public and members of the affected industry in the development of the Council's recommended management measures;

(iii) Whether there is an immediate need to protect the resource; and

(iv) Whether there will be a continuing evaluation of management measures adopted following their implementation as a final rule.

(3) *Action by NMFS*. If the Council's recommendation includes adjustments or additions to management measures and, after reviewing the Council's recommendation and supporting information:

(i) If NMFS concurs with the Council's recommended management measures and determines that the recommended management measures should be issued as a final rule based on the factors specified in paragraph (a)(2) of this section, the measures will be issued as a final rule in the **Federal Register**.

(ii) If NMFS concurs with the Council's recommendation and determines that the recommended management measures should be published first as a proposed rule, the measures will be published as a proposed rule in the **Federal Register**. After additional public comment, if NMFS concurs with the Council's recommendation, the measures will be issued as a final rule in the **Federal Register**.

(iii) If NMFS does not concur, the Council will be notified in writing of the reasons for the non-concurrence.

(b) *Emergency action*. Nothing in this section is meant to derogate from the authority of the Secretary to take emergency action under section 305(e) of the Magnuson-Stevens Act.

[FR Doc. 00–18648 Filed 7–25–00; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 35

[Docket No. RM99–2–000]

Regional Transmission Organizations

Issued July 20, 2000.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of guidance for processing Order No. 2000 Filings.

SUMMARY: The Federal Energy Regulatory Commission (Commission) is establishing and clarifying procedures regarding the filings related to the formation of Regional Transmission Organizations, as required by 18 CFR 35.34(c) and 35.34(h). These regulations were adopted in the Commission's Order No. 2000. (65 FR 809).

FOR FURTHER INFORMATION CONTACT: Brian R. Gish, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, (202) 208–0996.

SUPPLEMENTARY INFORMATION:

Notice of Guidance for Processing Order No. 2000 Filings

In Order No. 2000,[1] the Commission issued regulations requiring all transmission-owning public utilities to make certain filings.[2] This notice establishes and clarifies procedures related to those filings.

Timing of Filings

The regulations establish two deadlines for the required filings. Section 35.34(c) sets forth the general rule that filings are due by October 15, 2000, and section 35.34(h) establishes January 15, 2001 as the deadline for public utilities already participating in approved transmission entities.[3] Attached as an Appendix to this Notice is a list of the public utilities that the Commission deems to be within section 35.34(h) with a January 15, 2001 filing deadline. All other transmission-owning public utilities are subject to the October 15, 2000 deadline. Of course, any public utility may file before its deadline. In addition, transmission-owning non-public utilities who wish to voluntarily establish RTOs or join other RTO proposals along with public utilities may also voluntarily make filings on or before these deadlines.

Docketing of Filings

Each filing made in compliance with Order No. 2000, whether it is a proposal to participate in an RTO or an alternative filing, will receive a new docket number designation. The Commission has established the new ''RT'' prefix for docket numbers that will be assigned to any filing made in compliance with Order No. 2000.

Filing Requirements

Unless specified differently in this paragraph, the Commission's Rules of Practice and Procedure at 18 C.F.R. Part 385 are applicable. An original and fourteen copies of each compliance filing must be filed with the Commission. For each public utility making a compliance filing, the filing must contain the identity of the utility and a designation of person to receive service (*see* 18 C.F.R. § 385.203(b)), and be signed by an appropriate person representing the utility (*see* 18 C.F.R. § 385.2005(a)). The filing must be served on the State commission or commissions that have jurisdiction over the utility filer, and any other State commission in a state that might be affected by the filing. In addition, service should be made on any person or entity likely to be significantly affected by the filing (*e.g.,* current transmission customers of the utilities comprising the proposed RTO). A certificate of service listing those served must be included (*see* 18 C.F.R. 385.2010).

In addition to filing paper copies, the Commission encourages the filing of RTO compliance filings electronically, either on computer diskette or via Internet E-Mail. Such filings may be filed in the following formats: WordPerfect 8.0 or lower version, MS Word Office 97 or lower version, or ASCII format.

For diskette filing, include the following information on the diskette label: Order No. 2000 compliance filing; the name of the filing entity; the software and version used to create the file; and the name and telephone number of a contact person.

For Internet E-Mail submittal, filings should be submitted to *rto@ferc.fed.us* in the following format. On the subject line, specify Order No. 2000 compliance filing. In the body of the E-Mail message, include the name of the filing entity; the software and version used to create the file, and the name and telephone number of the contact person. Attach the filing to the E-Mail in one of the formats specified above. The Commission will send an automatic acknowledgment to the sender's E-Mail address upon receipt. Questions on electronic filing should be directed to Brooks Carter at 202–501–8145, E-Mail address *brooks.carter@ferc.fed.us.*

Filers should take note that, until the Commission amends its rules and regulations, the paper copy of the filing remains the official copy of the document submitted. Therefore, any discrepancies between the paper filing and the electronic filing or the diskette will be resolved by reference to the paper filing.

Commenting on Filings

A public notice will be issued for all compliance filings. The notice will establish a comment period of approximately 30 days for all interested persons to comment on each filing.

Joint Filings

The Commission reminds public utilities that the regulations allow for compliance filings to be made individually or jointly with other entities. Thus, where two or more public utilities are proposing to participate in the same RTO, the Commission encourages one joint filing. In the case of joint filings, it should be made clear which entities are participating in that filing. There must be separate representatives designated and separate authorizing signatures for any public utility for which a joint filing represents its required compliance filing. For approved transmission institutions, the transmission institution (*e.g.,* an approved ISO) may make the filing on behalf of the member transmission owners, but each public utility transmission owning member must provide separate authorizing signatures.

Filings Containing Milestones For Finalization

In Order No. 2000, the Commission recognized that some elements of an RTO proposal may be more difficult to fully implement than others. For example, with respect to function 7 (planning and expansion) and function 8 (interregional coordination), the regulations permit an extension beyond initial operation for full implementation of these functions. In these types of instances, where the Commission has adopted a period of implementation beyond the date of initial operation, we remind filers that they must provide an explanation of their plans for compliance, including dates of anticipated implementation.

Format For Filing

To make reviewing filings more efficient, we request that filings proposing an RTO contain an executive summary limited to no more than five pages. We also request that the filings address each of the required characteristics and functions in the order set forth in the regulations, followed by the support for any additional Federal Power Act sections 203 and 205 filings required to implement the RTO proposal. We recognize that there may be overlap in the discussions of the characteristics and functions, since proposals may have to support various elements in relation to how those elements allow the RTO to carry out others, *e.g.,* one measure of appropriate scope and configuration is how well the RTO can perform congestion management. Thus, to the extent it is necessary to discuss more than one characteristic or function together, we request that an identifying cross-reference be used so that the reader can easily find the discussion of a particular characteristic or function of interest.

[1] Regional Transmission Organizations, Order No. 2000, 65 FR 809 (January 6, 2000), FERC Stats. and Regs. ¶ 31,089 (1999), *order on reh'g,* Order No. 2000–A, 65 FR 12,088 (March 8, 2000), FERC Stats. and Regs. ¶ 31,092 (2000).

[2] 18 C.F.R. 35.34.

[3] Because October 15, 2000 falls on a Sunday, and January 15, 2001 falls on a holiday, the filings are due by close of business on October 16, 2000, and January 16, 2001, respectively. *See* 18 C.F.R. § 385.2007(a)(2).

Filings by Small Entities

The Commission reminds public utilities that have limited transmission facilities and that have previously been granted waiver of some or all of the requirements of Order Nos. 888 or 889, that an abbreviated filing is acceptable.[4] The Commission does not wish to burden these small entities with extensive filings, but will find it useful to know the status of all transmission-owning public utilities with respect to regional participation.

By direction of the Commission.

David P. Boergers,

Secretary.

Appendix—Public Utilities Required to File on or before January 15, 2001

California Independent System Operator (ISO)

Pacific Gas and Electric Company
San Diego Gas & Electric Company
Southern California Edison Company

ISO New England, Inc.

Bangor Hydro-Electric Company
Boston Edison Company
Cambridge Electric Light Company
Central Maine Power Company
Central Vermont Public Service Corporation
Commonwealth Electric Company
Fitchburg Gas & Electric Light Company
Green Mountain Power Corporation
Montaup Electric Company
New England Power Company
Connecticut Light & Power Company
Western Massachusetts Electric Company
Holyoke Water Power Company
Holyoke Power and Electric Company
Public Service Company of New Hampshire
North Atlantic Energy Corporation
United Illuminating Company
Vermont Electric Power Company

Midwest ISO

Central Illinois Public Service Company
Cincinnati Gas & Electric Company
Commonwealth Edison Company
Commonwealth Edison Company of Indiana
Illinois Power Company
Kentucky Utilities Company
Louisville Gas & Electric Company
PSI Energy, Inc.
Union Electric Company
Wisconsin Electric Power Company

New York ISO

Central Hudson Gas & Electric Corporation
Consolidated Edison Company of New York, Inc.
New York State Electric & Gas Corporation
Niagara Mohawk Power Corporation
Orange & Rockland Utilities, Inc.
Rochester Gas & Electric Corporation

PJM Interconnection, LLC

Atlantic City Electric Company
Baltimore Gas and Electric Company
Delmarva Power & Light Company
Jersey Central Power & Light Company
Metropolitan Edison Company
Pennsylvania Electric Company
Pennsylvania Power & Light Company
Potomac Electric Power Company
Public Service Electric & Gas Company

Alliance Companies

Appalachian Power Company
Columbus Southern Power Company
Indiana Michigan Power Company
Kanawha Valley Power Company
Kentucky Power Company
Kingsport Power Company
Ohio Power Company
Wheeling Power Company
Consumers Energy Company
Detroit Edison Company
Cleveland Electric Illuminating Company
Ohio Edison Company
Pennsylvania Power Company
Toledo Edison Company
Virginia Electric and Power Company

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BILLING CODE 6717–01–P

[4] *See* Order No. 2000–A, FERC Stats. & Regs. at 31,392–93.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 157

[Docket No. RM00–5–000; Order No. 615]

Optional Certificate and Abandonment Procedures for Applications for New Service Under Section 7 of the Natural Gas Act

Issued July 14, 2000.

AGENCY: The Federal Energy Regulatory Commission, DOE.

ACTION: Final rule.

SUMMARY: On September 15, 1999, the Commission issued a policy statement to provide the industry with guidance with respect to how the Commission will evaluate new proposals for pipeline construction projects to take account of changes in the natural gas industry in recent years (Policy Statement). In view of the new framework for analyzing pipeline certificate applications announced in the the Policy Statement, the Commission is removing the optional certificate regulations because it believes that a uniform regulatory scheme applicable to all certificate applications will best accomplish the Commission's goals, as set out in the Policy Statement, of assuring that all relevant interests and circumstances are considered and balanced in assessing the public convenience and necessity.

DATES: This rule is effective September 25, 2000.

FOR FURTHER INFORMATION CONTACT: William L. Zoller, Office of Energy Projects, Federal Energy Regulatory Commission 888 First Street, N.E., Washington, D.C. 20426, (202) 208–1203.

Joseph B. O'Malley, Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, D.C. 20426, (202) 208–0088.

SUPPLEMENTARY INFORMATION:

I. Introduction

The Federal Energy Regulatory Commission is amending its regulations to remove its optional certificate regulations in Subpart E of Part 157 of the Commission's regulations.[1] The policies embedded in these regulations have been overtaken by subsequent policy developments, most particularly the Commission's September 15, 1999 statement of policy on certificating new pipeline construction (Policy Statement).[2] The optional certificate regulations, promulgated in 1985, established procedures whereby an eligible applicant may obtain, for purposes of providing new service, a certificate authorizing: the transportation of natural gas; sales of natural gas; the construction and operation of natural gas facilities; the acquisition and operation of natural gas facilities; and conditional pre-granted abandonment of such activities and facilities. The Commission's September 15, 1999 Policy Statement provides the industry guidance with respect to how the Commission will evaluate new proposals for pipeline construction projects to take account of changes in the natural gas industry in recent years. The Policy Statement provides that pipelines may not rely on existing customers to subsidize new projects that will not benefit them and that construction projects will be approved only where the public benefits outweigh any adverse effects. The optional regulations do not provide for consideration and weighing of public interest factors, and are thus inconsistent with current Commission policy.

II. Background

Before a pipeline may construct any natural gas facilities subject to the Commission's Natural Gas Act (NGA) jurisdiction, it must obtain a certificate of public convenience and necessity authorizing such construction under section 7 of the NGA. In conjunction with the open access transportation

[1] 18 CFR 157.100 *et seq.*

[2] Certification of New Interstate Natural Gas Pipeline Facilities, 88 FERC ¶ 61,227 (1999) (Policy Statement), *order clarifying statement of policy,* 90 FERC ¶ 61,128 (2000).

program that the Commission established in 1985 in Order No. 436, the Commission adopted the optional certificate regulations as an alternative to the conventional certificate process.[3] A key goal of the optional certificate program was to provide the full benefits of competition to consumers by facilitating easier pipeline entry and exit from markets.[4] The optional certificate regulations establish a rebuttable presumption that, subject to review under the National Environmental Policy Act, a project is required by the public convenience and necessity if the applicant is willing to assume all the economic risk of a new service.[5] To assure that the applicant shoulders the project risk, the optional regulations prohibit shifting costs originally allocated to the new service or facility to any other service. The optional regulations also prohibit any reduction in the certificated level of billing determinants used to design the initial rates for a project or service.

In view of continuing changes in the natural gas industry, the Commission revisited its NGA section 7 certificate policy, and on September 15, 1999, the Commission issued its Policy Statement to provide the industry with guidance regarding the process and criteria the Commission will employ in evaluating future proposals for certificating new pipeline construction. Rather than adopting new rules for filing applications, the Policy Statement provides an analytical framework for determining when a particular pipeline project is required by the public convenience and necessity. The threshold requirement of the new policy is that the pipeline must be prepared to develop the project without relying on subsidies from its existing customers.[6] The Policy Statement also encourages pipelines seeking a certificate to resolve potential issues very early in the process by submitting applications designed to avoid or minimize adverse effects on such groups as existing customers of the applicant, existing pipelines serving the market and their captive customers, and affected landowners and other community interests. After the applicant makes efforts to minimize adverse effects, the Commission will authorize construction projects that have residual unresolved issues only where it finds that the public benefits of the projects outweigh the adverse effects. The Policy Statement provides that an applicant may submit evidence of the public benefits to be achieved by the proposed project, such as contracts, precedent agreements, studies of projected demand in the market to be served, or other evidence of public benefit of the project.

On February 9, 2000, the Commission issued a Notice of Proposed Rulemaking (NOPR)[7] proposing in the instant docket to amend the Commission's regulations by removing the optional certificate regulations. The Commission stated that a uniform regulatory scheme applicable to all certificate applications will best accomplish the Commission's goals, as set out in the Policy Statement, of assuring that all relevant interests and circumstances are considered and balanced in assessing the public convenience and necessity.

The Commission explained in the NOPR that its September 1999 Policy Statement established a core set of principles and considerations for evaluating new pipeline construction projects. By precluding subsidization of new projects, both the Policy Statement and the optional certificate program place the risk of a new project on the pipeline and the customers for the new project and protect existing customers from assuming the financial risk of a project that was not designed for their benefit. The Commission noted, however, that in other respects, current policy is inconsistent with the optional certificate program. The Commission explained that because the optional certificate program operates under a rebuttable presumption that proposals under which the pipeline applicant will assume the financial risks associated with the project are in the public interest, the Commission does not weigh the public benefits against the adverse effects in considering such applications. The Commission stated that it believes that it will be better to consider all certificate applications under the broader balancing criteria articulated in the Policy Statement.

In its order clarifying the Policy Statement,[8] issued contemporaneously with the NOPR, the Commission determined that, on an interim basis until issuance of a final rule in this rulemaking proceeding, the presumption in favor of an application filed under the optional certificate regulations will continue, but that the presumption will be considered rebutted if the adverse affects of the proposed project are found to outweigh its benefits.

III. Discussion

The Commission received only four comments in response to its NOPR, none of which disagreed with the proposal to eliminate the optional procedures. One commentor, El Paso Energy Corporation, believes that a uniform regulatory scheme employing the same standards and procedures for all certificate applications will improve the integrity and fairness of the regulatory process, and it supports the Commission's proposal to remove the optional certificate procedures. The other commentors, Sempra Energy Companies (Sempra), The Williams Companies, Inc. (Williams), and the Coastal Pipelines (ANR Pipeline Company, Colorado Interstate Gas Company, and Wyoming Interstate Company, Ltd.), express differing opinions regarding when removal of the optional certificate procedures should take effect. Williams also comments on the weight to be accorded an applicant's taking on the financial risk of a project.

Sempra supports the Commission's proposal to remove the optional certificate rules, and it urges that all new and pending applications filed under the optional procedures be converted to conventional NGA 7(c) applications and considered under the analytical framework set out in the Commission's Policy Statement. Sempra avers that, inasmuch as the Commission has determined that the optional procedures are inconsistent with the Policy Statement, the optional procedures should be eliminated as soon as possible. What it calls ''the accident of an early filing date'' should not result in applications filed under the optional procedures avoiding review under the interest balancing standards of the Policy Statement.

Williams and the Coastal Pipelines, on the other hand, while stating that they have no objection to the Commission's elimination of the optional certificate procedures, argue that elimination of the regulations should be prospective only. That is, they aver that the Commission should apply the optional certificate rules to applications filed under those procedures prior to the issuance of the NOPR. Williams urges, moreover, that, after the optional procedures are removed, the Commission should consider an applicant's willingness to assume the financial risk of a project as a major factor in assessing the public convenience and necessity under the Policy Statement's balancing test. It

[3] *See* Order No. 436, Regulation of Natural Gas Pipelines After Partial Wellhead Decontrol, 50 FR 42408 (Oct. 18, 1985), 50 FR 45907 (Nov. 5, 1985); FERC Stats. & Regs. ¶ 30,665 (1985).

[4] *Id.* at p. 31,570.

[5] *Id.* at p. 31,584.

[6] Policy Statement, 88 FERC, at p. 61,750.

[7] Optional Certificate and Abandonment Procedures for Applications for New Service Under Section 7 of the Natural Gas Act, 65 FR 7803 (Feb. 16, 2000), FERC Stats. & Regs. ¶ 32,551.

[8] 90 FERC ¶ 61,128 (2000), at p. 61,391.

remains true today, asserts Williams, just as the Commission found when it adopted the optional certificate procedures, that an applicant's willingness to bear all the risk of a project's failure is strong evidence that there is a public need for a project inasmuch as a reasonable company would not invest in a project unless it believes that it will be able to attract sufficient business to recoup its investment.

Commission Response

We find that all comparable pipeline projects should be evaluated under the same criteria, and we adopt our proposal set forth in the NOPR to remove the optional certificate regulations. As the Commission stated in the NOPR, a regulatory approach that determines the public convenience and necessity on a uniform basis for all project applicants will best assist the Commission in meeting its goal, as set forth in the Policy Statement, that all interests and circumstances that are relevant to a particular pipeline project will be accorded appropriate consideration and weight.

The Commission agrees with Williams that an applicant's willingness to assume the financial risk of a project without subsidies from existing customers should be an important factor in determining the public convenience and necessity. We in fact explained in the Policy Statement that this is the threshold issue in that determination. However, analysis of the public convenience and necessity under the Policy Statement does not end with a determination that the project can proceed without subsidy from existing customers. The Policy Statement explained that the requirement that a project be able to stand on its own without subsidies ''will be the predicate for the rest of the evaluation of a new project by an existing pipeline.'' [9] Thus, the Commission stated, ''if an applicant can show that the project is financially viable without subsidies, then it will have established the first indicator of public benefit.'' [10] Once the applicant satisfies the threshold test, the Commission will proceed pursuant to the Policy Statement to evaluate and balance the public benefit from a proposed project against any residual adverse effects on existing customers, other pipelines and their captive customers, and landowners and communities affected by the route proposed for the pipeline. Because the optional certificate regulations undertake this interest balancing only if the presumption in favor of the application is challenged, they conflict with a significant goal under the Policy Statement, and we will remove them as an alternative means of certificating a project.

As noted above, in its order clarifying the Policy Statement, the Commission addressed the matter of the appropriate standard to be applied to applications filed under the optional certificate procedures pending a final determination in this rulemaking proceeding. The Commission announced that it would continue to apply the presumption in favor of financially viable proposals that did not rely on contributions from existing customers, but that it would consider the presumption successfully rebutted, pursuant to a Policy Statement analysis, if the adverse effects from the project outweigh the public benefits. We continue to believe that this is the appropriate approach to optional certificate applications filed prior to the effective date of this final rule, which will be 60 days after its date of issuance.

The optional procedures' regulatory presumption has always been one that is subject to rebuttal. The Commission has now explained that the presumption favoring an optional certificate proposal may be addressed by applying a Policy Statement analysis. While procedurally this places the burden on those parties that find themselves adversely affected by a proposal, the Commission believes that, as a practical matter, the end result will be the same. We explained in the NOPR that this is an interim solution only until the optional certificate procedures are eliminated and all proposals are evaluated directly under the Policy Statement considerations.

IV. Environmental Analysis

Commission regulations describe the circumstances where preparation of an environmental assessment or an environmental impact statement will be required.[11] The Commission has categorically excluded certain actions from this requirement as not having a significant effect on the human environment.[12] No environmental consideration is necessary for the promulgation of a rule that is clarifying, corrective, or procedural, or that does not substantially change the effect of legislation or regulations being amended.[13]

This Final Rule merely eliminates optional procedures for the filing and processing of pipeline certificate applications; the Rule makes no substantive change to, or has any substantive effect on, the environmental requirements and conditions with respect to any pipeline project. Applicants for pipeline construction authority have had to satisfy the same environmental requirements under the optional or traditional procedures, as well as under the Policy Statement. Thus, issuance of this Final Rule does not represent a major federal action having a significant effect on the human environment under the Commission's regulations implementing the National Environmental Policy Act, and no environmental assessment or environmental impact statement is necessary for the action taken here.

V. Regulatory Flexibility Impact Statement

The Regulatory Flexibility Act of 1980 (RFA) [14] generally requires a description and analysis of final rules that will have significant economic impact on a substantial number of small entities. The Commission is not required to make such analysis if a rule would not have such an effect.[15]

Removal of the optional certificate rules will not have such an impact on small entities. The proposed removal of regulations would have impact only on interstate pipelines, which generally do not fall within the RFA's definition of small entity.[16] Accordingly, pursuant to section 605(a) of the RFA, the Commission certifies that the removal of regulations proposed here will not have a significant economic impact on a substantial number of small entities. Therefore, no regulatory flexibility analysis is required.

VI. Information Collection Statement

The Office of Management and Budget's (OMB) regulations require that OMB approve certain information collection requirements imposed by agency rule.[17] Upon approval of a collection of information, OMB shall assign an OMB control number and an expiration date. Respondents subject to the filing requirements of this Final Rule shall not be penalized for failure to respond to this collection of information

[9] Policy Statement, 88 FERC, at p. 61,746.

[10] *Id.* at p. 61,747.

[11] Regulations Implementing National Environmental Policy Act, 52 FR 47897 (Dec. 17, 1987), *codified* at 18 CFR Part 380.

[12] 18 CFR 380.4(a)(2)(ii).

[13] 18 CFR 380.4.

[14] 5 U.S.C. 601–612.

[15] 5 U.S.C. 605(b).

[16] 5 U.S.C. 601(3), citing to section 3 of the Small Business Act, 15 U.S.C. 632. Section 3 of the Small Business Act defines a ''small business concern'' as a business which is independently owned and operated and which is not dominant in its field of operations.

[17] 5 CFR 1320.11.

unless the collection of information displays a valid OMB control number. The collection of information related to this Final Rule falls under FERC–537, Gas Pipeline Certificates: Construction, Acquisition, and Abandonment (OMB Control No. 1902–0060).[18]

The Commission is not establishing a new information burden. Rather, under this Final Rule, the Commission is merely removing a heretofore little used alternative to the conventional NGA section 7(c) application process. All pipeline project applicants will file the same information that the overwhelming majority of applicants for construction authority already file. As a practical matter, our action should not have any appreciable effect on the collection of data from the pipeline industry.

None of the comments received in response to the NOPR specifically addressed the reporting burden or cost estimates. As required under OMB's regulations, the Commission submitted the NOPR to OMB for review. OMB took no action on the NOPR.

Interested persons may obtain information on the reporting requirements by contacting the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, [Attention: Michael Miller, Office of the Chief Information Officer, Phone: (202)208–1415, fax: (202)208–2425, e-mail: mike.miller@ferc.fed.us] or the Office of Management and Budget, Office of Information and Regulatory Affairs, Washington, D.C. 20503. [Attention: Desk Officer for the Federal Energy Regulatory Commission, phone: (202)395–3087, fax: (202)395–7285]

VII. Document Availability

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the Internet through FERC's Home Page (*http://www.ferc.fed.us*) and in FERC's Public Reference Room during normal business hours (8:30 a.m. to 5 p.m. Eastern time) at 888 First Street, N.E., Room 2A, Washington, DC 20426.

From FERC's Home Page on the Internet, this information is available in both the Commission Issuance Posting System (CIPS) and the Records and Information Management System (RIMS).

—CIPS provides access to the texts of formal documents issued by the Commission since November 14, 1994.

—CIPS can be accessed using the CIPS link or the Energy Information Online icon. The full text of this document is available on CIPS in ASCII and WordPerfect 8.0 format for viewing, printing, and/or downloading.

—RIMS contains images of documents submitted to and issued by the Commission after November 16, 1981. Documents from November 1995 to the present can be viewed and printed from FERC's Home Page using the RIMS link or the Energy Information Online icon. Descriptions of documents back to November 16, 1981, are also available from RIMS-on-the-Web; requests for copies of these and other older documents should be submitted to the Public Reference Room. User assistance is available for RIMS, CIPS, and the Website during normal business hours from our Help line at (202) 208–2222 (E-Mail to *WebMaster@ferc.fed.us*) or the Public Reference at (202) 208–1371 (E-Mail to *public.referenceroom@ferc.fed.us*).

During normal business hours, documents can also be viewed and/or printed in FERC's Public Reference Room, where RIMS, CIPS, and the FERC Website are available. User assistance is also available.

VIII. Effective Date

This Final Rule will take effect September 25, 2000. The Commission has determined, with the concurrence of the Administrator of the Office of Information and Regulatory Affairs of the Office of Management and Budget, that this rule is not a ''major rule'' within the meaning of section 251 of the Small Business Regulatory Enforcement Fairness Act of 1996.[19] The Commission will submit the Final Rule to both houses of Congress and the General Accounting Office.[20]

List of Subjects in 18 CFR Part 157

Administrative practice and procedure, Natural gas, Reporting and recordkeeping requirements.

By the Commission.

Linwood A. Watson, Jr.,

Acting Secretary.

In consideration of the foregoing, the Commission is amending Part 157 of Chapter I, Title 18, Code of Federal Regulations, as follows:

PART 157—APPLICATIONS FOR CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY AND FOR ORDERS PERMITTING AND APPROVING ABANDONMENT UNDER SECTION 7 OF THE NATURAL GAS ACT

1. The authority citation for part 157 continues to read as follows:

Authority: 15 U.S.C. 717–717W, 3301–3432; 42 U.S.C. 7101–7352.

§§ 157.100–157.106 Subpart E—[Removed and Reserved]

2. Remove and reserve subpart E, consisting of §§ 157.100 through 157.106.

[FR Doc. 00–18499 Filed 7–25–00; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 270, 375 and 381

[Docket No. RM00–6–000; Order No. 616]

Well Category Determinations

Issued July 14, 2000.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final Rule.

SUMMARY: The Federal Energy Regulatory Commission (Commission) is amending its regulations to reinstate provisions for well category determinations for certain categories of high-cost gas under NGPA section 107. An NGPA determination will enable such gas to be eligible for a tax credit under Section 29 of the Internal Revenue Code (Section 29 tax credit). The final Rule extends the provisions to all wells, and tight formation areas that could qualify for the Section 29 tax credit.

EFFECTIVE DATE: This rule is effective September 25, 2000.

FOR FURTHER INFORMATION CONTACT:

Marilyn Rand (Technical Information), Office of Pipeline Regulation, 888 First Street, NE., Washington, DC 20426, (202) 208–0444.

Jacob Silverman (Advisory Attorney), Office of the General Counsel, 888 First Street, NE., Washington, D.C. 20426, (202) 208–2078.

SUPPLEMENTARY INFORMATION:

Before Commissioners: James J. Hoecker, Chairman; William L. Massey, Linda Breathitt, and Curt Hebert, Jr.

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[18] The current burden estimate for FERC–537 is 138,264 hours. This number is based on an average of 50 respondents (companies making filings), 11.2 responses (filings per respondent), and 246.9 hours of preparation time per response.

[19] 5 U.S.C. 804(2).

[20] 5 U.S.C. 801(a)(1)(A).

Order No. 616, Final Rule, issued July 14, 2000.

I. Introduction

The Federal Energy Regulatory Commission (Commission) is amending its regulations to reinstate provisions for making well category determinations under section 503 of the Natural Gas Policy Act of 1978 (NGPA). In a Notice of Proposed Rulemaking (NOPR) issued on January 27, 2000,[1] the Commission proposed to reinstate well determination procedures for certain categories of high-cost gas under NGPA section 107. An NGPA determination will enable such gas to be eligible for a tax credit under Section 29 of the Internal Revenue Code (Section 29 tax credit). The NOPR specifically proposed to limit the availability of the reinstated procedures to determinations on post-January 1, 1993 recompletions in wells drilled after December 31, 1979, but before January 1, 1993. The Commission also did not propose any regulations that would allow a jurisdictional agency to designate new tight formations. The Final Rule extends the provisions to all wells spudded before January 1, 1993, and recompletions both before and after that date that could qualify for the Section 29 tax credit, and provides for the designation of new tight formations.

II. Background

Section 29 of the Internal Revenue Code, as amended by the Revenue Reconciliation Act of 1990, allows taxpayers to claim a tax credit for certain qualified fuels which (1) are produced from wells drilled after December 31, 1979, and before January 1, 1993,[2] and (2) are sold before January 1, 2003. The qualified fuels include high cost gas as defined in NGPA section 107 (c)(2)–(4) (gas produced from geopresssured brine, coal seams and Devonian shale), as well as some gas the Commission defined as tight formation gas pursuant to NGPA section 107(c)(5).

Section 29(c)(2)(A) of the Internal Revenue Code also provides that the determination whether gas falls into a category qualifying for the tax credit ''shall be made in accordance with section 503 of the (NGPA).'' NGPA section 503 set forth the procedures used for determining whether gas qualified for the various categories of gas entitled to the higher ceiling prices established by the NGPA as incentives for increased production. These included section 107(c) ''high-cost natural gas.'' Under NGPA section 503, the agency having regulatory jurisdiction with respect to the production of the natural gas in question (the jurisdictional agency)[3] made the initial determination, and submitted it to the Commission. The Commission could either affirm, reverse, remand, make a preliminary finding on, or simply take no action, regarding the agency's determination. If the Commission took no action within 45 days after receipt of the agency's determination, that determination became final. Judicial review was available under section 503 only if the Commission remanded or reversed the determination.

The Wellhead Decontrol Act of 1989 (Decontrol Act)[4] decontrolled all wellhead sales of natural gas by January 1, 1993, and repealed NGPA section 503 as of that date. After decontrol, the Commission's policy was not to accept determinations for any post-January 1, 1993 drilling activity. The Commission, however, continued to process well category determinations it received from jurisdictional agencies through April 30, 1994, for wells spudded before January 1, 1993, and pre-January 1, 1993 recompletions. The Commission explained that the reason for continuing to review those agency determinations for a transition period, was that, while NGPA section 107 well category determinations no longer had any price consequence, they were necessary to obtain the Section 29 tax credit.

As discussed above, section 29 of the Code provides that, in order to qualify for the tax credit, gas must be produced from a well drilled before January 1, 1993, the same date the last remaining NGPA ceiling prices were eliminated and NGPA section 503 was repealed. When the Commission decided not to process well determination requests for wells recompleted after December 31, 1992, it was assumed that the tax credit would not be available with respect to any drilling activity after that date, and therefore there was no need to continue the well category determination procedures to enable producers to qualify for the tax credit for such drilling activity. However, on August 16, 1993, the Internal Revenue Service (IRS), which administers the Section 29 tax credit, issued Revenue Ruling 93–54,[5] clarifying the provision of section 29 that states that gas must be produced from a well drilled before January 1, 1993. The IRS held that, while the initial drilling of a well had to have been performed before January 1, 1993, tax credits are available for non-conventional fuels produced through a post-January 1, 1993 recompletion in the well, as long as the recompletion does not involve additional drilling to deepen or extend the well.

After the IRS Revenue Ruling 93–54, the Commission received jurisdictional agency determinations for recompletions commenced after January 1, 1993. However, the Commission refused to process them since it appeared that the IRS would permit the Section 29 credit for such recompletions without any Commission action. On July 29, 1994, the Commission issued Order No. 567,[6] which deleted regulations that were no longer required due to the decontrol of wellhead sales of natural gas, including regulations which set forth eligibility requirements, filing requirements, and the procedures for making well determinations under section 503 of the NGPA.

Thus matters stood from 1994 until the *True Oil* decision changed the legal landscape. In 1999 the United States Court of Appeals for the Tenth Circuit held in *True Oil Co.* v. *Commissioner of Internal Revenue*[7] (*True Oil*) that, in order to obtain the section 29 tax credit, there must be a formal determination under the procedures provided by NGPA section 503 that the gas is high cost gas.

A. The NOPR

In the NOPR the Commission proposed to accept jurisdictional agency determinations for those post-January 1, 1993 recompletions which satisfy the IRS' definition under Revenue Ruling 93–54, including that the recompletion does not involve additional drilling to deepen or extend the well. For this purpose, the Commission proposed to reinstate regulations necessary to (1) Define the categories of high cost gas eligible for the tax credit and (2) provide procedures for jurisdictional agencies to file their determinations and the Commission to review those determinations.

The Commission proposed not to accept determinations from jurisdictional agencies with respect to either initial completions in wells

[1] 65 FR 6048 (Feb. 8, 2000), FERC Stats.& Regs., Proposed Regulations ¶ 32,549 (Jan. 27, 2000).

[2] For purposes of the tax credit, the initial drilling had to be started after January 1, 1980, and this date was never changed. Thus, this starting date is assumed throughout.

[3] That agency may be either a State or Federal agency.

[4] Pub. L. 101–60; 103 Stat. 157 (1989).

[5] 1993–2 CB.3 (1993).

[6] Removal of Outdated Regulations Pertaining to the Sales of Natural Gas Production, 59 FR 40240, FERC Stats. & Regs., Regulations Preambles 1991–1996 ¶ 30,999 (1994), Order on Rehearing, 69 FERC ¶¶ 61,055 and 61,042 (1994). A petition to review the deletion of other provisions in these regulations was denied by the Court of Appeals in *Hadson Gas System, Inc.* v. *FERC*, 75 F.3d 680 (D.C. Cir. 1996).

[7] 170 F.3d 1294 (10th Cir. 1999).

spudded before January 1, 1993, or any pre-1993 recompletions. Thus, the well category determination procedures the Commission proposed to reinstate in § 270.201 would be limited to recompletions commenced after January 1, 1993, in wells initially drilled after December 31, 1979, but before January 1, 1993. This reflected the Commission's decision to limit the determination process to correct the situation caused by the *True Oil* decision, but parties were invited to comment on this matter. The Commission proposed to accept determinations for recompletions in tight formations, coal seams, and Devonian Shale.[8] The Commission also proposed only to accept jurisdictional agency determinations for qualifying recompletions in already designated tight formations, and would not allow a jurisdictional agency to designate additional tight formations. The NOPR stated that the Commission must rely upon the jurisdictional agencies to develop the full record in these proceedings, and the Commission would limit its role to reviewing initial determinations made by the jurisdictional agencies. Accordingly, the Commission requested comments from the jurisdictional agencies whether they will make initial determinations under NGPA section 503, if the proposed rule is adopted.

In summary, the Commission proposed to reinstate those portions of its prior regulations, with appropriate modifications, that are necessary to allow producers to obtain well category determinations solely for tax credit purposes. In general, the proposed regulations retain the definitions, the filing and notice requirements, and the review procedures that the Commission promulgated prior to the termination of the regulations due to the Decontrol Act.[9]

B. The Comments

The Commission received comments from over 40 parties, as set forth in the Appendix, including comments by the United States Department of Energy (DOE), fourteen state jurisdictional agencies,[10] and the United States Department of the Interior, Bureau of Land Management (BLM). All commentors, without exception, support the reinstatement of the NGPA procedures. Most of the commentors, including DOE and the jurisdictional agencies, urge the Commission to extend the determination procedures to all wells spudded before January 1, 1993, and pre-1993 recompletions so that all gas eligible for a tax credit may receive a determination. In addition, several commentors, assert that the Commission should allow jurisdictional agencies to designate new tight formation areas.

In response to the NOPR's question, the jurisdictional agencies filing comments stated they would make the initial determinations.[11] Several jurisdictional agencies that previously made NGPA section 107 determinations did not file comments.[12] In its comments, BLM stated that it does not have the staffing and budgetary resources to assume the additional workload that would result if the Commission extends the procedures to all eligible wells and permits jurisdictional agencies to designate new tight formations. Some commentors urged the Commission to adopt revised procedures to ease the burden of implementing the reinstated review process.

III. Discussion

In this final rule, the Commission is reinstating its well determination review procedures in order to allow producers to obtain the Section 29 tax credit. This is consistent with Congress' desire to encourage, enhance, and expand the United States' natural gas supply base by allowing legitimately qualified producers to receive a tax credit associated with developing and producing gas from formations and wells that otherwise might not have been available to supply consumers. In the NOPR, the Commission explained the legal authority for reinstating the well determination review procedures to allow producers to obtain the Section 29 tax credit despite the repeal of NGPA section 503 by the Wellhead Decontrol Act. This authority has not been questioned by any commentor, and all commentors support reinstatement of the well determination review procedures. However, the extent of the review process was subject to extensive comment, which the Commission will now address.

1. Should the review process be limited to post-January 1, 1993 recompletions?

In the NOPR the Commission proposed not to accept determinations with respect to either initial completions in wells spudded before January 1, 1993, or any pre-1993 recompletions. The Commission stated that in Order No. 539, the Commission established deadlines for filing applications involving wells that were spudded and/or recompleted prior to January 1, 1993, and the time has long passed when those applications should have been filed. Also, the NOPR stated that in a petition filed by a number of producers requesting the Commission to reinstate the NGPA section 503 well category procedures, the producers had not requested that the Commission accept determinations with regard to wells spudded or recompleted before January 1, 1993.

In their comments, parties have urged that the proposal not be so limited. The commentors maintain that the reasons stated in the NOPR do not present a valid basis for limiting the review process to post-January 1, 1993 recompletions. They assert that the fact that the deadline set by the Commission for submitting determinations for pre-January 1, 1993 drilling activity has passed should not bar producers from seeking to obtain the tax credit. Moreover, they argue that there are many reasons why the Commission's April 1994 deadline for jurisdictional agencies to file determinations with respect to pre-January 1, 1993 drilling activity may not have been met.

Commentors state that the Order No. 539 deadlines were imposed because the Commission assumed that the Section 29 tax credit would not be available for wells originally drilled before January 1, 1993, that were recompleted after that date.[13] Thus, the Commission had concluded that it needed to go out of the business of making well determinations by a time certain. Moreover, it was assumed that the fact that the Commission would not process well determinations did not mean that the Section 29 tax credit could not be obtained by the producer. Commentors assert that those reasons for the April 30, 1994 deadline are no longer valid because the IRS in Revenue Ruling 93–54 allowed certain

[8] The NOPR stated that it did not include a definition for gas produced from geopressured brine since past experience has shown that there is no gas likely to qualify for this category given the Commission's definition of geopressured brine and the current state of technology. The NOPR requested comments on this matter, but none was filed.

[9] The substantive rulings that the Commission made previously concerning well determinations and the qualification under these NGPA section 107 category would also continue to govern.

[10] The jurisdictional agencies were from the following states: Alabama, Colorado, Kansas, Kentucky, Louisiana, Michigan, New Mexico, New York, Ohio, Oklahoma, Texas, Virginia, West Virginia, and Wyoming.

[11] Michigan simply stated it is willing to make the necessary determinations on post-January 1, 1993 recompletions.

[12] Those not filing comments were Arkansas, California, Illinois, Indiana, Mississippi, Montana, Nebraska, North Dakota, Pennsylvania, South Dakota, Tennessee, and Utah.

[13] FERC Stats & Regs., Regulations Preamble 1991–1996 ¶ 30, 940 n.41 at 30, 488.

recompletions performed after January 1, 1993, to qualify for the tax credit, and *True Oil* requires the NGPA section 503 procedures to be followed to obtain the tax credit.

Commentors also assert that there were a number of reasons producers did not meet the April 30, 1994 deadline established in the Order No. 539 series. They contend that there was some question at the time as to what the consequences were of not meeting the Commission's deadline. This was especially true after the IRS issued Revenue Ruling 93–54, which permitted the tax credit for post-January 1, 1993 recompletions. In addition, as DOE explained, there was a large amount of drilling activity which occurred prior to the close of the drilling window on December 31, 1992. This inevitably led to some oversights on the part of producers, or it simply made the deadline impossible to meet. In addition, subsequent purchasers of pre-1993 wells may not have been aware of the filing deadlines imposed by the Commission in Order No. 539.

We explained in the NOPR, and no one has contested, that the Commission has continuing authority to process NGPA section 503 determinations to allow producers to qualify for the Section 29 tax credit. In light of this authority, the Commission finds merit in commentors' request that the Commission reinstate the NGPA section 503 well category determination procedure for most pre-January 1, 1993 drilling activity, as well as post-January 1, 1993 recompletions, where necessary to allow a producer to qualify for the Section 29 tax credit. We will not reinstate the NGPA section 503 well category determination procedure for pre-January 1, 1980 completions because the gas produced from such completions is not eligible for the Section 29 tax credit.

The Commission did not impose any deadline on filing requests for determinations, nor a deadline for submitting the determinations by the jurisdictional agency, until the decontrol of wellhead sales. The Commission then set deadlines only as a means of implementing the complete termination of the well category determination program. Now that the Commission is reinstating that program so that producers can obtain the Section 29 tax credit, there is no basis to decline to process well category determination for pre-January 1, 1993 drilling activity while processing determinations for post-January 1, 1993 recompletion drilling activity. Section 29 allows a credit if the producer obtains the section 503 determination. The Commission has the authority to make the section 503 determination. Therefore, the Commission concludes it should process determinations for any well that could qualify for a Section 29 tax credit, regardless of when the drilling activity occurred, as long as it meets the requirements of section 29 of the Code. We will not reinstate the NGPA section 503 well category determination procedure for pre-January 1, 1980 completions because the gas produced from such completions is not eligible for the Section 29 tax credit.

Accordingly, except for gas produced from a pre-January 1, 1980 completion, the Commission will modify the proposed rule, and will apply the section 503 review process to wells drilled and spudded, and recompletions commenced prior to December 31, 1992, as well as to post-January 1, 1993 recompletions.[14]

2. Should The Designation of New Tight Formation Areas be Permitted?

Before a specific well can obtain a tight formation determination, a portion of the formation into which the well is, or will be completed, must be designated as a tight formation by a jurisdictional agency, which determination is also subject to Commission review. After a field is designated as a tight formation, applications with respect to completions in specific wells in the designated tight formation can be filed.[15]

In the NOPR, the Commission stated that the Commission was not proposing any regulations that would allow a jurisdictional agency to designate additional tight formations. The Commission explained that to permit the designation of additional tight formations would require the Commission to review extensive geologic data, which could place an undue burden on the Commission.[16] In addition, the Commission noted that it appeared likely that most producing formations that qualify as tight formations have already been designated as such.

A number of commentors, including two jurisdictional agencies, urge that the Commission should permit the designation of additional tight formation areas. They assert that the reasons stated in the NOPR for not doing so, do not justify denying the tax credit that producers would be entitled to from production in these areas.

Commentors argue that, contrary to the contention that most tight formation areas have already been designated, there are numerous additional tight formation areas that could qualify for the tax credit. Specifically, Texas makes reference to proceedings in the State of Texas that resulted in 357 additional tight formation designations covering thousands of acres.

Commentors also assert that the concern about placing an undue burden on the Commission does not justify denying producers the ability to obtain the tax credit that Congress provided for. Moreover, new and revised procedures could be adopted by the Commission to lessen the expected workload from the new filings.

For the same reasons we have concluded to allow the review process for wells drilled and spudded, and recompletions commenced prior to December 31, 1992, as well as to the post-January 1, 1993 recompletions, we will also permit the designation of new tight formations. As explained above, the Commission has been authorized to carry out the NGPA section 503 well category determination procedure so producers can obtain the section 29 tax credit for qualifying gas. Permitting the designation of new tight formations is consistent with, and furthers Congress' purpose in establishing the Section 29 tax credit to encourage domestic natural gas production.

On balance, the Commission concludes that it should permit the designation of new tight formations. Therefore, the regulations are being amended to include procedures for designating new tight formations and the information required to support such designation. In its comments, BLM stated that permitting the designation of new tight formations would result in ''a substantial administrative burden'' to it.

[14] We note that a new determination will not be required for some recompletions involving Devonian shale gas if there is a prior determination covering the entire gross Devonian age stratigraphic interval penetrated by the wellbore. The Commission will view all natural gas produced from a well to have been previously qualified as Devonian shale production if: (1) The well previously received an affirmative Devonian shale determination that was not reversed or remanded by the Commission; and (2) that determination was based on a gamma ray index test for non-shale footage that spans the entire gross Devonian age stratigraphic interval. In such cases, the Commission sees no reason to re-affirm what has already been established, i.e., that any gas produced from the gross Devonian age stratigraphic interval penetrated by such well qualifies as natural gas produced from Devonian shale within the meaning of section 107(c)(4) of the NGPA.

[15] The Commission originally designated tight formation areas by rule making and listed approved tight formations in § 271.703 of the Commission's regulations, but after the decision in *Williston Basin Interstate Pipeline Co.* v. *FERC,* 816 F.2d 816 (D.C. Cir. 1987), the Commission followed the procedures under NGPA section 503.

[16] FERC Stats. & Regs. Proposed Regulations ¶ 32,549 at 33,897.

The Commission will address this, and other procedural matters in the next section.

3. Procedural Matters

Commission staff, by letter, notified all jurisdictional agencies that previously made determinations for gas that qualified for Section 29 tax credits of the NOPR, and requested them to advise the Commission as to whether they would be willing to make determinations again. The fourteen jurisdictional agencies that filed comments, responded that they would make the determinations. Several other jurisdictional agencies that previously made Section 107 determinations did not respond to staff's letter. However, this will not preclude them from submitting determinations when this rule becomes effective.

In addition, BLM indicated it would not have appropriate staff resources to make determinations if the determination procedures were expanded to include all wells and new tight formation areas. BLM suggests that the Commission could provide resources since the Commission proposes to collect a fee, or the industry could fund a position in BLM's office. BLM, also has proposed that the section 503 procedures ''be radically streamlined to minimize the technical review process and jurisdictional agency involvement,'' and seems to suggest that the Commission use BLM's Automated Fluid Minerals Support System to make the determinations.

The NOPR stated that NGPA section 503 requires the jurisdictional agencies to make an initial well category determination, unless, as permitted by section 503(c)(2), the Commission enters into an agreement with a State or Federal agency under which the Commission would make the determinations that would otherwise be made by that agency. The NOPR stated that the Commission intended not to exercise its discretion to enter into any such agreement [17] because the Commission's role in the producing area has virtually been eliminated, and consequently the Commission's resources in this area have been substantially reduced.

In its comments, Equitable Production Company (Equitable) asserts that the Commission does not have the discretion to determine that it will not make determinations if the jurisdictional agencies decline to do so. The Commission disagrees, because NGPA section 503(c)(2) permits waiver of the jurisdictional agency's authority to make the initial determination only if the Commission agrees to enter into a written agreement with the jurisdictional agency wherein the Commission agrees to make the initial determination.[18] Since the NGPA makes Commission performance of initial determinations contingent on the Commission's agreement to do so, the Commission clearly has the discretion to refuse to agree. Given its limited resources in this area, the Commission cannot undertake to perform the initial review of producer applications of well category determinations, and must rely on the jurisdictional agencies to perform this function. Accordingly, the Commission concludes that it will not accept applications for determinations from producers if the applicable jurisdictional agency has not agreed to make determinations.[19] As to the BLM's concerns, BLM may wish to consider entering into an agreement with the applicable state jurisdictional agencies that would provide that the state jurisdictional agency will be responsible for determinations involving Federal lands in that state. The previous regulations provided for this, and the NOPR proposed to reinstate this provision. Further, the filing fee under the Commission's regulations does not preclude BLM from collecting a separate fee to recover its costs of processing the well determination applications.

The Commission has reviewed the coal seam, Devonian shale, and tight formation gas well certification requirements of the State of Texas Severance Tax Incentive for High Cost Gas program, as set forth under §§ 3.101(e)(3), (4), and (5) of Railroad Commission Statewide Rule 101. We find those filing requirements provide virtually the same documentation and evidentiary support for those certifications that we are requiring for a coal seam gas, Devonian shale, or tight formation gas determination under the NGPA. Accordingly, Texas may utilize the documents and information filed pursuant to Railroad Commission Rule 101 to satisfy the corresponding filing requirements for a well category determination under the NGPA. However, all applicants whose applications for determinations rely upon such documents and information must provide Texas with appropriate oath statements and Form 121 required under the NGPA regulations. Texas, in turn, must include this material with the notice of determination that Texas files with the Commission.

Texas and the Producer Coalition propose significant procedural changes in the review of new tight formations. Texas notes that it has approved 357 tight formation designations since 1993 under its ''State of Texas Severance Tax Incentive for High Cost Gas program'' (under RRC Statewide Rule 101). In contrast, 172 tight formation designations in Texas were approved before 1993 under the NGPA procedures. Texas asserts the Commission should accept these area designations because the requirements under RRC Statewide Rule 101 are equivalent to the Commission's requirements for tight formations. Texas also asserts the Commission should accept any determinations it makes in the future under its Rule 101. The Producer Coalition urges the Commission to allow jurisdictional agencies to designate additional tight formations without Commission review.

In order to qualify as a tight formation, a formation must meet guidelines for permeability and stabilized flow ratio. The Commission clarified these guidelines in Order No. 539.[20] The Commission understands that in designating tight formations, Texas uses the geometric mean or median values to satisfy the 0.1 millidarcy (md) in-situ permeability and maximum allowable pre-stimulation stabilized flow rate requirements under Texas' program. This conflicts with the Commission's use of the arithmetic mean to determine if formations meet the Order No. 539 guidelines for permeability and stabilized flow rates . The Commission found that using median or geometric mean averaging hides ''sweet spots'' which allows areas that do not meet the qualifications to be designated as tight formations. Accordingly, the Commission rejects Texas' proposal that the Commission accept Texas' designation of new tight formations under RRC Statewide Rule 101.

The Commission also rejects the Producer Coalition's suggestion that the Commission accept all tight formation designations by jurisdictional agencies without any Commission review. Therefore, the previously existing review process will be reinstated.

Vastar Resources, Inc. (Vastar) a large independent oil and natural gas company, like most commentors,

[17] FERC Statutes & Regulations, Proposed Regulations ¶ 32,549 at 33,897.

[18] The Joint Explanatory Statement of the Committee on Conference explained that waiver under section 503 (c)(2) will take place only ''if the Commission agrees'' to make the determination. I FERC Stats. & Regs. ¶ 3101 at 3142.

[19] The Commission did not enter into any such waiver agreement when the prior regulations were in effect.

[20] FERC Stats.& Regs., Regulations Preambles 1991–1996 ¶ 30,940 (1992).

requests the Commission to broaden the scope of the reinstated well determination process to include any and all wells that otherwise qualify for the section 29 tax credit, regardless of circumstances. However, its request goes beyond what other commentors have requested.

First, it requests that a post-1992 replacement well should be included within the scope of the reinstated determination process. By replacement well, Vastar refers to the situation where a qualified section 29 well stops producing for mechanical reasons and cannot be economically sidetracked, and the producer may be able to drill a replacement well. On its face, the request is contrary to the statutory requirement that the well must be drilled or spudded before December 31, 1992. The Commission is unaware of any I.R.S. ruling that such a ''replacement'' well could receive the Section 29 tax credit. Thus, the ''replacement'' well does not present the same situation as a post-December 31, 1992 recompletion since the IRS has ruled on recompletions in Revenue Ruling 93–54. Vastar also requests the Commission to include wells drilled prior to 1993 where production did not begin prior to January 1, 1993. However, since the final rule expands the eligible class to all wells that could qualify for the Section 29 tax credit there is no need to make a special provision for this type of well.

Finally, as we stated in the NOPR, since the Section 29 tax credit is now scheduled to end on December 31, 2002, the reinstatement of the well determination review procedures will remain effective until the later of June 30, 2003, or six months after the tax credit is no longer available for production from any well should Congress further extend the tax credit.

IV. Environmental Statement

The Commission excludes certain actions not having a significant effect on the human environment from the requirement to prepare an environmental assessment or an environmental impact statement. Since the final rule reinstates regulations that were previously in effect, and does not substantially change the effect of the underlying legislation or the regulations being revised, it falls under the exclusion in ¶ 380.4 (a)(2)(ii) of the Commission's regulations.[21] In the NOPR, the Commission expressed this view, and none of the comments questioned this position. Accordingly, no environmental consideration is necessary.

V. Information Collection Statement

The Office of Management and Budget's (OMB) regulations in 5 CFR 1320.11 require that it approve certain reporting and recordkeeping requirements (collections of information) imposed by an agency. Upon approval of a collection of information, OMB will assign an OMB control number and an expiration date. Respondents subject to the filing requirements of this Rule will not be penalized for failing to respond to these collections of information unless the collections of information display a valid OMB control number.

The collections of information related to the subject of this final rule fall under FERC Form No. 121, Applications for Maximum Lawful Price under the Natural Gas Policy Act of 1978 (OMB Control No. 1902–0038) and FERC–568 Well Category Determinations (OMB Control No. 1902–0112). Under this Final Rule, the overall burden of filing will be increased as the Commission is expanding the number of wells that will be eligible for the Section 29 tax credit. Therefore, the Commission is revising its initial burden estimates as stated in the NOPR on the number of applications it anticipates it will receive from 1800 to 2400. The Section 29 tax credit is scheduled to expire on December 31, 2002.

The burden estimates for complying with this final rule are as follows:

Data collection	No. of respondents	No. of responses	Hours per response	Total annual hours
FERC Form 121	2400	1	.25	600
FERC–568	2400	1	6.01	14,424

The total annual hours for collection (including recordkeeping) is estimated to be: 15,024 hours.
The average annualized cost for all respondents is projected to be the following:

Data collection	Annualized capital/start-up costs	Annualized costs (operations & maintenance)	Total annualized costs
FERC Form 121	$32,176	$0.00	$32,176
FERC–568	773,522	0.00	773,522

The total annualized costs for collection is estimated to be: $805,698. Cost per respondent = (Form 121, $13.41), (FERC–568, $ 322.00).

The Commission received forty four comments on the proposed rule, but none on its reporting burden or cost estimates. The Commission's responses to the comments are being addressed elsewhere in this rule. Further, we note that, as required under OMB's regulations, the Commission submitted the NOPR for OMB review. OMB took no action on the NOPR. However, in response, OMB stated that the Commission should resubmit its information collection request when it takes final action.

Interested persons may obtain information on the reporting requirements by contacting the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426 [Attention: Michael Miller, Office of the Chief Information Officer, CI–1, Phone: (202) 208–1415, fax: (202) 208–2425, e-mail *mike.miller@ferc.fed.us*] or send comments to the Office of Management and Budget [Attention: Desk Officer for the Federal Energy Regulatory Commission]. The Desk Officer can be reached at (202) 395–3087, fax: 395–7285.

VI. Regulatory Flexibility Act Certification

The Regulatory Flexibility Act (RFA), 5 U.S.C. 601–612, requires rulemakings to contain either a description and analysis of the effect that the proposed rule will have on small entities or a certification that the rule will not have

[21] 18 CFR 380.4(a)(2)(ii).

a significant economic impact on a substantial number of small entities.

In *Mid-Tex Elec. Coop.* v. *FERC,* 773 F.2d 327 (D.C. Cir. 1985), the court found that Congress, in passing the RFA, intended agencies to limit their consideration ''to small entities that would be directly regulated'' by proposed rules. *Id.* at 342. The court further concluded that ''the relevant 'economic impact' was the impact of compliance with the proposed rule on regulated small entities.'' *Id.* at 342.

The final rule reinstates regulations that were previously in effect, and would enable entities to obtain Internal Revenue Code Section 29 tax credits. The Commission certifies that this proposed rule will not have a significant adverse economic impact upon a substantial number of small entities.

VII. Effective Date

These regulations become effective September 25, 2000. The Commission has determined, with the concurrence of the Administrator of the Office of Information and Regulatory Affairs of OMB, that this rule is a ''major rule'' as defined in Section 251 of the Small Business Regulatory Enforcement Fairness Act of 1996.[22] The Commission will submit the rule to both houses of Congress and the Comptroller General prior to its publication in the **Federal Register**.

VIII. Document Availability

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the Internet through FERC's Home Page (*http://www.ferc.fed.us*) and in FERC's Public Reference Room during normal business hours (8:30 a.m. to 5:00 p.m. Eastern time) at 888 First Street, NE, Room 2A, Washington, DC 20426.

From FERC's Home Page on the Internet, this information is available in both the Commission Issuance Posting System (CIPS) and the Records and Information Management System (RIMS).

—CIPS provides access to the texts of formal documents issued by the Commission since November 14, 1994.

—CIPS can be accessed using the CIPS link or the Energy Information Online icon. The full text of this document will be available on CIPS in ASCII and WordPerfect 8.0 format for viewing, printing, and/or downloading.

—RIMS contains images of documents submitted to and issued by the Commission after November 16, 1981. Documents from November 1995 to the present can be viewed and printed from FERC's Home Page using the RIMS link or the Energy Information Online icon. Descriptions of documents back to November 16, 1981, are also available from RIMS-on-the-Web; requests for copies of these and other older documents should be submitted to the Public Reference Room.

User assistance is available for RIMS, CIPS, and the Website during normal business hours from our Help line at (202) 208–2222 (E-Mail to *WebMaster@ferc.fed.us)* or the Public Reference at (202) 208–1371 (E-Mail to *public.referenceroom@ferc.fed.us).*

During normal business hours, documents can also be viewed and/or printed in FERC's Public Reference Room, where RIMS, CIPS, and the FERC Website are available. User assistance is also available.

List of Subjects

18 CFR. Part 270

Natural gas, Price controls, Record and recordkeeping requirements.

18 CFR Part 375

Authority delegations (Government agencies), Seals and insignia, Sunshine Act.

18 CFR Part 381

Natural gas, Reporting and recordkeeping requirements.

By the Commission.

Linwood A. Watson, Jr.,

Acting Secretary.

In consideration of the foregoing, the Commission amends Chapter I, Title 18, of the Code of Federal Regulations, as follows:

1. The heading of Subchapter H is revised and part 270 is added to read as follows:

Subchapter H—Procedures Governing Determinations for Tax Credit Purposes

PART 270—DETERMINATION PROCEDURES

Subpart A—General Definitions

Sec.

Subpart B—Determinations by Jurisdictional Agencies

Subpart C—Requirements for Filing with Jurisdictional Agencies

Subpart D—Identification of State and Federal Jurisdictional Agencies

Subpart E—Commission Review of Jurisdictional Agency Determinations

Authority: 15 U.S.C. 717–717w, 3301 *et. seq.;* 42 U.S.C. 7101 *et seq.;* EO 12009, 3 CFR 1978 Comp., p. 142.

Subpart A—General Definitions

§ 270.101 General definitions.

(a) *NGPA definitions.* Terms defined in the Natural Gas Policy Act of 1978 (NGPA) will have the same meaning for purposes of this subchapter as they have under the NGPA, unless further defined in this subchapter.

(b) *Subchapter H definitions.* For purposes of this part:

(1) *NGPA* means the Natural Gas Policy Act of 1978.

(2) *Surface location* means the point on the Earth's surface from which drilling of a well is commenced except that in the case of a well drilled in permanent surface waters, ''the Earth's surface'' means the mean elevation of the surface of the water.

(3) *Jurisdictional agency* means the state or federal agency identified in § 270.401.

(4) *Tight formation gas* means natural gas that a jurisdictional agency has determined to be produced from a designated tight formation.

(5) *Designated tight formation* means the portion of a natural gas bearing formation that was:

(i) Designated as a tight formation by the Commission, pursuant to section 501 of the NGPA, or

(ii) Determined to be a tight formation pursuant to section 503 of the NGPA.

(6) *Occluded natural gas produced from coal seams* means naturally occurring natural gas released from entrapment from the fractures, pores and bedding planes of coal seams.

[22] 5 U.S.C. 804(2).

(7) *Natural gas produced from Devonian shale* means natural gas produced from fractures, micropores and bedding planes of shales deposited during the Paleozoic Devonian Period.

(8) *Shales deposited during the Paleozoic Devonian Period* can be defined as either:

(i) The gross Devonian age stratigraphic interval encountered by a well bore, at least 95 percent of which has a gamma ray index of 0.7 or greater; or

(ii) One continuous interval within the gross Devonian age stratigraphic interval, encountered by a well bore, as long as at least 95 percent of the selected Devonian shale interval has a gamma ray index of 0.7 or greater (but if the interval selected is more than 200 feet thick, the bottom and top 100 foot portions must meet the five percent test independently).

(9) *Gamma ray index* means when measuring the Devonian age stratigraphic interval, the gamma ray index at any point is to be calculated by dividing the gamma ray log value at that point by the gamma log value at the shale base line established over the entire Devonian age interval penetrated by the well bore.

(10) *Mcf* means one thousand cubic feet of natural gas at 60 degrees Fahrenheit under a pressure equivalent to that of 30.00 inches of mercury at 32 degrees Fahrenheit, under standard gravitational force (980.665 centimeters per second squared).

(11) *Data well* means a well for which permeability and/or pre-stimulation production rate data are available for a pay section in the formation for which a tight formation designation is being sought.

Subpart B—Determinations by Jurisdictional Agencies

§ 270.201 Applicability.

(a) This part applies to determinations of jurisdictional agencies for tight formation gas, occluded natural gas produced from coal seams, and natural gas produced from Devonian shale that is produced through:

(1) A well the surface drilling of which began after December 31, 1979, but before January 1, 1993;

(2) A recompletion commenced after January 1, 1993, in a well the surface drilling of which began after December 31, 1979, but before January 1, 1993; or

(3) A recompletion commenced after December 31, 1979, but before January 1, 1993, where such gas could not have been produced from any completion location in existence in the well bore before January 1, 1980.

(b) This part also applies to determinations of jurisdictional agencies that designate a formation, or portion thereof, as a tight formation.

§ 270.202 Definition of determination.

For purposes of this subpart, a determination has been made by a jurisdictional agency when such determination is administratively final before such agency.

§ 270.203 Determinations by jurisdictional agencies.

A jurisdictional agency must make determinations to which this part applies in accordance with procedures applicable to it under the law of its jurisdiction for making such determinations or for making comparable determinations.

§ 270.204 Notice to the Commission.

Within 15 days after making a determination under this part, the jurisdictional agency must give written notice of the determination to the Commission. The notice must include the following:

(a) A list of all participants in the proceeding as well as any persons who submitted or who sought an opportunity to submit written comments (whether or not such persons participated in the proceeding);

(b) A statement indicating whether the matter was opposed before the jurisdictional agency;

(c) A copy of the application together with a copy or description of all other materials upon which the jurisdictional agency relied in the course of making the determination, together with any information which may be inconsistent with the determination.

(d) An explanatory statement, including appropriate factual findings and references, which is sufficient to enable a person examining the notice to ascertain the basis for the determination without reference to information or data not contained in the notice.

Subpart C—Requirements for Filings With Jurisdictional Agencies

§ 270.301 General requirements.

(a) An application for determination may be filed with the jurisdictional agency and signed by any person the jurisdictional agency designates as eligible to make filings with respect to the well for which the application is made.

(b) The documents required by this subpart are the minimum required in support of a request for a determination. The jurisdictional agency may require additional support as it deems appropriate, and may more specifically identify the documents indicated as the minimum required.

(c) Each applicant must pay the fee prescribed in § 381.401 of this chapter. The applicant will be billed annually by the Commission for each jurisdictional agency determination received by the Commission. The applicant must submit the fee, or petition for waiver pursuant to § 381.106 of this chapter, within 30 days following the billing date.

§ 270.302 Occluded natural gas produced from coal seams.

A person seeking a determination that natural gas is occluded natural gas produced from coal seams must file an application with the jurisdictional agency which contains the following items:

(a) FERC Form No. 121;

(b) All well completion reports.

(c) A radioactivity, electric or other log which will define the coal seams.

(d) Evidence to establish that the natural gas was produced from a coal seam;

(e) A statement by the applicant, under oath, that gas is produced from a coal seam through:

(1)(i) A well the surface drilling of which began after December 31, 1979, but before January 1, 1993;

(ii) A recompletion commenced after January 1, 1993, in a well the surface drilling of which began after December 31, 1979, but before January 1, 1993; or

(iii) A recompletion that was commenced after December 31, 1979 but before January 1, 1993, where such gas could not have been produced from any completion location in existence in the well bore before January 1, 1980; and

(2) The applicant has no knowledge of any information not described in the application which is inconsistent with his conclusion.

§ 270.303 Natural gas produced from Devonian shale.

A person seeking a determination that natural gas is produced from Devonian shale shall file an application with the jurisdictional agency which contains the following items:

(a) FERC Form No. 121;

(b) All well completion reports;

(c) A gamma ray log with superimposed indications of the shale base line and the gamma ray index of 0.7 over the Devonian age stratigraphic section designated pursuant to § 270.101(b)(8);

(d) A reference to a standard stratigraphic chart or text establishing that the producing interval is a shale of Devonian age; and

(e) A sworn statement:

(1) Calculating the percentage of footage of the producing interval which

is not Devonian shale as indicated by a Gamma ray index of less than 0.7;

(2) Demonstrating that the percentage of potentially disqualifying non-shale footage for the stratigraphic section selected is equal to or less than 5 percent of the Devonian stratigraphic age interval designated pursuant to § 270.101(b)(7);

(3) Attesting that the natural gas is being produced from Devonian shale through:

(i) A well the surface drilling of which began after December 31, 1979, but before January 1, 1993;

(ii) A recompletion commenced after January 1, 1993, in a well the surface drilling of which began after December 31, 1979, but before January 1, 1993; or

(iii) A recompletion that was commenced after December 31, 1979 but before January 1, 1993, where such gas could not have been produced from any completion location in existence in the well bore before January 1, 1980; and

(4) Attesting that the applicant has no knowledge of any information not described in the application which is inconsistent with his conclusion.

§ 270.304 Tight formation gas.

A person seeking a determination that natural gas is tight formation gas must file with the jurisdictional agency an application which contains the following items:

(a) FERC Form No. 121;

(b) All well completion reports;

(c) A map that identifies the surface location of the well and the completion location in the well in the designated tight formation, along with the geographic boundaries of the designated tight formation, or a location plat identifying the surface location of the well and the completion location in the designated tight formation, along with a list of the tract (or tracts) of land that comprise the designated tight formation;

(d) A complete copy of the well log, including the log heading identifying the designated tight formation stratigraphically; and

(e) A statement by the applicant, under oath, that:

(1) The natural gas is being produced from a designated tight formation through:

(i) A well the surface drilling of which began after December 31, 1979, but before January 1, 1993;

(ii) A recompletion commenced after January 1, 1993, in a well the surface drilling of which began after December 31, 1979, but before January 1, 1993; or

(iii) Through a recompletion that was commenced after December 31, 1979 but before January 1, 1993, where such gas could not have been produced from any completion location in existence in the well bore before January 1, 1980; and

(2) The applicant has no knowledge of any information not described in the application which is inconsistent with his conclusion.

§ 270.305 Determination of tight formation areas.

(a) *General requirement.* A jurisdictional agency determination designating a portion of a formation as a tight formation must be made in the form and manner prescribed in this subpart.

(b) *Guidelines for designating tight formations.* A jurisdictional agency determination designating a portion of a formation as a tight formation must be made in accordance with the following guidelines:

(1) Within the geographic boundaries of the portion of the formation being recommended for tight formation designation, the estimated in situ gas permeability, throughout the pay section, is expected to be 0.1 millidarcy (md) or less. The expected in situ permeability is to be determined through an arithmetic mean averaging of the known permeabilities obtained from the wells that penetrate, and have a pay section in, such portion of such formation.

(2) Within the geographic boundaries of the portion of the formation being recommended for tight formation designation, the stabilized production rate of natural gas, against atmospheric pressure, of wells completed for production in such portion of such formation, without stimulation, is not expected to exceed the production rate determined in accordance with the table in this paragraph (b)(2). Such expected stabilized, pre-stimulation production rate is to be determined through an arithmetic mean averaging of the known stabilized, pre-stimulation production rates obtained from the wells that penetrate, and have a pay section in, such portion of such formation.

If the average depth to the top of the formation (in feet)		The maximum allowable production rate of natural gas (in Mcf per day)
exceeds—	but does not exceed—	may not exceed—
0	1,000	44
1,000	1,500	51
1,500	2,000	59
2,000	2,500	68
2,500	3,000	79
3,000	3,500	91
3,500	4,000	105
4,000	4,500	122
4,500	5,000	141
5,000	5,500	163
5,500	6,000	188
6,000	6,500	217
6,500	7,000	251
7,000	7,500	290
7,500	8,000	336
8,000	8,500	388
8,500	9,000	449
9,000	9,500	519
9,500	10,000	600
10,000	10,500	693
10,500	11,000	802
11,000	11,500	927
11,500	12,000	1,071
12,000	12,500	1,238

If the average depth to the top of the formation (in feet)		The maximum allowable production rate of natural gas (in Mcf per day)
exceeds—	but does not exceed—	may not exceed—
12,500	13,000	1,432
13,000	13,500	1,655
13,500	14,000	1,913
14,000	14,500	2,212
14,500	15,000	2,557

(c) *Notice to the Commission.* Any jurisdictional agency making a determination that a formation, or portion thereof, qualifies as a tight formation will provide timely notice, in writing, of such determination, to the Commission. Such notice shall include the following to substantiate the jurisdictional agency's findings:

(1) Geological and geographical descriptions of the formation, or portion thereof, which is determined to qualify as a tight formation; and (2)

Geological and engineering data to support the determination, including (but not limited to):

(i) A map of the area for which a tight formation determination is being sought that clearly locates and identifies all data wells and all dry holes that penetrate the subject formation and all wells that are currently producing from the subject formation.

(ii) A well-by-well table of each in situ permeability value (in millidarcies), pre-stimulation stabilized production rate (in Mcf per day), and depth to the top of the formation (in feet) for each well, and the arithmetic mean of each set of data.

(iii) For any data that the jurisdictional agency excludes from the above calculations, a statement explaining why the data was excluded.

(iv) The underlying well test, well logs, cross-sections, or other data sources, and all calculations performed to derive the formation tops, permeability values, and pre-stimulation stabilized production rates shown in the well-by-well table.

(v) Any other information that the jurisdictional agency deems relevant and/or that the jurisdictional agency relied upon in making its determination.

§ 270.306 Devonian shale wells in Michigan.

A person seeking a determination that natural gas is being produced from the Devonian Age Antrim shale in Michigan shall file an application that contains the following items:

(a) FERC Form No. 121;

(b) All well completion reports;

(c) A gamma ray log from the closest available well bore (producing or dry hole) that is within a one mile radius of the well for which a determination is sought, with superimposed indications of:

(1) The shale base line and the gamma ray index of 0.7 over the Devonian age stratigraphic section penetrated by the well bore; and

(2) The boundary between the Antrim shale and the overlying formation (Berea Sandstone, Ellsworth, Bedford, or Sunbury shales, or their equivalents);

(d) A location plat showing the well for which the determination is sought and the well for which a gamma ray log has been filed;

(e) A mud log from the well for which the determination is sought, with a detailed description of samples taken from 10-foot, or less, intervals throughout the Devonian age stratigraphic section penetrated by the well bore;

(f) A driller's log, or similar report, from the well for which the determination is sought, indicating the general characteristics of the strata penetrated and the corresponding depths at which they are encountered throughout the Devonian age stratigraphic section penetrated by the well bore;

(g) A reference to a standard stratigraphic chart or text establishing that the producing interval is a shale of Devonian age; and

(h) A sworn statement:

(1) Calculating the percentage of footage of the producing interval (or the Antrim Shale in the event the well is a dry hole) in the well for which a gamma ray log was submitted which is not Devonian shall as indicated by a gamma ray index of less than 0.7;

(2) Demonstrating that the percentage of potentially disqualifying non-shale footage for the Devonian age stratigraphic section penetrated by the well bore for which the submitted gamma ray log is equal to or less than 5 percent;

(3) Attesting that the natural gas is being produced from the Devonian Age Antrim shale through:

(i) A well the surface drilling of which began after December 31, 1979, but before January 1, 1993;

(ii) A recompletion commenced after January 1, 1993, in a well the surface drilling of which began after December 31, 1979, but before January 1, 1993; or

(iii) A recompletion that was commenced after December 31, 1979 but before January 1, 1993, where such gas could not have been produced from any completion location in existence in the well bore before January 1, 1980 and

(4) Attesting the applicant has no knowledge of any information not described in the application which is inconsistent with his conclusion.

Subpart D—Identification of State and Federal Jurisdictional Agencies

§ 270.401 Jurisdictional agency.

(a) *Definition.* With respect to a well the surface location of which is on lands within the boundaries of a State (including Federal lands and offshore State lands), ''jurisdictional agency'' means the Federal or State agency having regulatory jurisdiction with respect to the production of natural gas.

(b) The jurisdictional agency for wells located on Federal lands in each state are:

(1) Alabama—Chief, Branch of Resources, Planning & Protection, Bureau of Land Management, Eastern States Office (931), 7450 Boston Boulevard, Springfield, VA 22153.

(2)(i) Alaska, Anchorage Field Office—Assistant District Manager for Mineral Resources, Bureau of Land Management, 6881 Abbott Loop Road, Anchorage, AK 99507.

(ii) Alaska, Northern Field Office—Assistant District Manager for Mineral Resources, Bureau of Land Management, 1150 University Avenue, Fairbanks, AK 99709.

(3)(i) Arizona, except for the Navaho and Hopi Indian Reservations—Deputy State Director for Mineral Resources, Bureau of Land Management, PO Box 555, Phoenix, AZ 85000–0555.

(ii) Arizona, Navaho and Hopi Indian Reservations—District Manager, Bureau of Land Management, Albuquerque District Office (NGPA), 435 Montano Road, NE., Albuquerque, NM 87107.

(4) Arkansas—Chief, Branch of Resources, Planning & Protection,

Bureau of Land Management, Eastern States Office (931), 7450 Boston Boulevard, Springfield, VA 22153.

(5) California, except Naval Petroleum Reserve No. 1 (Elk Hills) and No. 2 (Buena Vista)—Chief, Branch of Fluid and Solid Minerals, Bureau of Land Management, Division of Mineral Resources (C–920), 2800 Cottage Way, Suite W–1834, Sacramento, CA 95825.

(6) Colorado—Deputy State Director for Resource Services, Bureau of Land Management, Colorado State Office (CO–930), 2850 Youngfield Street, Lakewood, CO 80215.

(7) Florida and Georgia—Chief, Branch of Resources, Planning & Protection, Bureau of Land Management, Eastern States Office (931), 7450 Boston Boulevard, Springfield, VA 22153.

(8) Idaho—Deputy State Director Resources and Science, Bureau of Land Management, Idaho State Office (931), 1387 Vinnell Way, Boise, ID 83709.

(9) Illinois, Indiana, and Iowa—Chief, Branch of Resources, Planning & Protection, Bureau of Land Management, Eastern States Office (931), 7450 Boston Boulevard, Springfield, VA 22153.

(10) Kansas—Deputy State Director for Resource Services, Bureau of Land Management, Colorado State Office (CO–931), 2850 Youngfield Street, Lakewood, CO 80215.

(11) Kentucky, Louisiana, Maryland, Michigan, Mississippi, and Missouri—Chief, Branch of Resources, Planning & Protection, Bureau of Land Management, Eastern States Office (931), 7450 Boston Boulevard, Springfield, VA 22153.

(12) Montana—Chief, Branch of Fluid and Solid Minerals, Bureau of Land Management, Division of Mineral Resources, PO Box 36800, Billings, MT 59107.

(13) Nebraska—Chief, Branch of Resources, Planning & Protection, Bureau of Land Management, Eastern States Office (931), 7450 Boston Boulevard, Springfield, VA 22153.

(14) Nevada—State Director, Bureau of Land Management, Nevada State Office (NV–92000), PO Box 12000, Reno, NV 89520.

(15)(i) New Mexico, Northern New Mexico—Field Office Manager, Bureau of Land Management, Albuquerque Field Office (NGPA), 435 Montano Road, NE., Albuquerque, NM 87107.

(ii) New Mexico, Southern New Mexico—Field Office Manager, Bureau of Land Management, Roswell Field Office (NGPA), 2909 West Second Street, Roswell, NM 88201.

(16) New York and North Carolina—Chief, Branch of Resources, Planning & Protection, Bureau of Land Management, Eastern States Office (931), 7450 Boston Boulevard, Springfield, VA 22153.

(17) North Dakota—Chief, Branch of Fluid Minerals, Bureau of Land Management, Division of Mineral Resources, PO Box 36800, Billings, MT 59107.

(18) Ohio—Chief, Branch of Resources, Planning & Protection, Bureau of Land Management, Eastern States Office (931), 7450 Boston Boulevard, Springfield, VA 22153.

(19)(i) Oklahoma, except the Osage Reservation—Field Office Manager, Bureau of Land Management, Tulsa Field Office (NGPA), 7906 East 33rd Street, Suite 101, Tulsa, OK 74145.

(ii) Oklahoma, the Osage Reservation only—Superintendent, Osage Indian Agency, Bureau of Indian Affairs, U. S. Department of the Interior, Pawhuska, OK 74056.

(20) Oregon—Deputy State Director, Planning, Use, and Protection, Bureau of Land Management, Oregon State Office, PO Box 2965, Portland, OR 97208.

(21) Pennsylvania and South Carolina—Chief, Branch of Resources, Planning & Protection, Bureau of Land Management, Eastern States Office (931), 7450 Boston Boulevard, Springfield, VA 22153.

(22) South Dakota—Chief, Branch of Fluid Minerals, Bureau of Land Management, Division of Mineral Resources, PO Box 36800 Billings, MT 59107.

(23) Tennessee—Chief, Branch of Resources, Planning & Protection, Bureau of Land Management, Eastern States Office (931), 7450 Boston Boulevard, Springfield, VA 22153.

(24) (i) Texas, east of the 100th Meridian—Field Office Manager, Bureau of Land Management, Tulsa Field Office (NGPA), 7906 East 33rd Street, Suite 101, Tulsa, OK 74145.

(ii) Texas, west of the 100th Meridian—Field Office Manager, Bureau of Land Management, Roswell Field Office (NGPA), 2909 West Second Street, Roswell, NM 88201.

(25) (i) Utah, except for the Navajo and Hopi Indian Reservations—Deputy State Director for Natural Resources, Bureau of Land Management, Utah State Office (U–930), 324 South State Street, Suite 301, Salt Lake City, UT 84111.

(ii) Utah, the Navajo and Hopi Indian Reservations only—Field Office Manager, Bureau of Land Management, Albuquerque Field Office (NGPA), 435 Montano Road, NE., Albuquerque, NM 87107.

(26) Virginia—Chief, Branch of Resources, Planning & Protection, Bureau of Land Management, Eastern States Office (931), 7450 Boston Boulevard, Springfield, VA 22153.

(27) Washington—Deputy State Director for Mineral Resources, Bureau of Land Management, Oregon State Office, PO Box 2965, Portland, OR 97208.

(28) West Virginia—Chief, Branch of Resources, Planning & Protection, Bureau of Land Management, Eastern States Office (931), 7450 Boston Boulevard, Springfield, VA 22153.

(29) (i) Wyoming, excluding Naval Petroleum Reserve No. 3 (Teapot Dome) Casper Field Office—Field Office Manager, Bureau of Land Management, 1701 East E Street, Casper, WY 82601.

(ii) Rawlins Field Office—Field Office Manager, Bureau of Land Management, PO Box 2407, Rawlins, WY 82301.

(iii) Rock Springs Field Office—Field Office Manager, Bureau of Land Management, 280 Highway 191 North, Rock Springs, WY 82901.

(iv) Worland Field Office—Field Office Manager, Bureau of Land Management, PO Box 119, Worland, WY 82401.

(c) The jurisdictional agency for wells located on Other lands in each state are:

(1) Alabama—State Oil and Gas Board, 420 Hackberry Lane, P O Box 869999, Tuscaloosa, AL 35486–9780.

(2) Alaska—Department of Natural Resources, Oil & Gas Division, 550 West 7th Avenue, Anchorage, AK 99501.

(3) Arizona—Oil and Gas Conservation Commission, 416 West Congress Street, Suite 100, Tucson, AZ 85701

(4) Arkansas—Oil & Gas Commission, PO Box 1472, El Dorado, AR 71730-1472.

(5) California—Department of Conservation, Division of Oil & Gas, 801 K Street, MS24–01, Sacramento, CA 95814.

(6) Colorado—Oil & Gas Conservation Commission, 1120 Lincoln, Suite 801, Denver, CO 80203.

(7) Florida—Administrator Oil and Gas, Bureau of Geology, Department of Natural Resources, 903 West Tennessee Street, Tallahassee, FL 32304.

(8) Georgia—Department of Natural Resources, Geologic & Water Resources Division, 19 Martin Luther King Drive, SW, Atlanta, GA 30334.

(9) Idaho—Idaho Public Utilities Commission, Statehouse Mail, Boise, ID 83720.

(10) Illinois—Department of Natural Resources, Oil & Gas Division, 524 South 2nd Street, Springfield, IL 62701.

(11) Indiana—Department of Natural Resources, Oil & Gas Division, 402 West Washington Street, Room 256 Indianapolis, IN 46204.

(12) Kansas—Kansas Corporation Commission, Finney State Office

Building, 130 South Market, Room 2078, Wichita, KS 67202–3802.

(13) Kentucky—Public Service Commission, 211 Sower Blvd., PO Box 6615, Frankfort, KY 40602–0615.

(14) Louisiana—Department of Natural Resources, Office of Conservation, PO Box 94275, Baton Rouge, LA 70804.

(15) Maryland—Department of Natural Resources, Tawes State Office Building., Annapolis, MD 21404.

(16) Michigan—Department of Environmental Quality, Geological Survey Division, Hollister Building, PO Box 30473, Lansing MI 48909.

(17) Mississippi—State Oil & Gas Board, 500 Graymont Avenue, Suite E, Jackson, MS 39202.

(18) Missouri—Department of Natural Resources Geology and Survey Division, PO Box 250, 111 Fairgrounds Road, Rolla, MO 65402.

(19) Montana—Department of Natural Resources and Oil and Gas Conservation Division, 2535 St. John's Avenue, Billings, MT 59102.

(20) Nebraska—Oil & Gas Conservation Commission, Box 399, Sidney, NE 69162.

(21) Nevada—Department of Conservation and Natural Resources, Division of Mineral Resources, Capitol Complex, 201 S. Fall Street, Carson City, NV 89710.

(22) New Mexico—Department of Energy and Minerals and Natural Resources, Oil Conservation Division, 2040 S. Pacheco Street, Sante Fe, NM 87505.

(23) New York—New York State Department of Environmental Conservation, Division of Mineral Resources, Bureau of Oil and Gas Regulation, 50 Wolf Road, Albany, NY 12233–6500.

(24) North Carolina—Department of Natural Resources and Community Development, 512 North Salisbury Street, Raleigh, NC 27611.

(25) North Dakota—Industrial Commission, State Capitol, 600 East Boulevard Avenue, Department 405, Bismarck, ND 58505.

(26) Ohio—Department of Natural Resources, Division of Oil and Gas 4383 Fountain Square Drive, Columbus, OH 43224–1362.

(27) Oklahoma—-Corporation Commission, 300 Jim Thorpe Building, PO Box 52000–2000, Oklahoma City, OK 73152–2000.

(28) Oregon—Department of Geology & Mineral Industries, 800 N.E. Oregon Street, #28 Portland, OR 972332.

(29) Pennsylvania '' Department of Conservation and Natural Resources, PO Box 8767, Harrisburg, PA 17105–8767.

(30) South Carolina—South Carolina Public Service Commission, PO Drawer 11649, Columbia, SC 29211.

(31) South Dakota—Oil and Gas Supervisor, Department of Environment and Natural Resources, 2050 West Main, Suite 1, Rapid City, SD 57702.

(32) Tennessee—Office of Conservation, Division of Geology, 401 Church Street, Nashville, TN 37243.

(33) Texas—Railroad Commission Oil and Gas Division, 1701 North Congress Avenue, PO Box 12967, Austin, TX 78711–2967.

(34) Utah—-Department of Natural Resources, Division of Oil, Gas and Mining, PO Box 145801 West North Temple, Suite 1210, Salt Lake City, UT 84114–5801.

(35) Virginia—Department of Mines, Minerals & Energy, Division of Gas and Oil, PO Box 1416, Abingdon, VA 24210.

(36) Washington—Department of Natural Resources, Geology and Earth Resources Division, PO Box 47001, Olympia, WA 98504.

(37) West Virginia—-Division of Environmental Protection, Office of Oil and Gas, #10 McJunkin Road, Nitro, WV 25143–2506.

(d) *Federal lands.* For purposes of this section, *Federal lands* means:

(1) All lands leased under:

(i) The Mineral Lands Leasing Act, as amended, 30 U.S.C. 181 *et seq.*; and

(ii) The Mineral Leasing Act for Acquired Lands, as amended, 30 U.S.C. 351 *et seq.*; and

(2) All Indian lands which are under the supervision of the United States Geological Survey or any successor federal agency (30 CFR part 221); and

(3) All Indian lands which are under the supervision of the Osage Indian Agency, Bureau of Indian Affairs, U.S. Department of the Interior.

(e) *Divided-interest leases.* Unless an agreement under this paragraph provides otherwise, where a well is located on a divided-interest lease involving Federal (or Indian) and private (or State) ownership:

(1) The Federal jurisdictional agency will make the determination where the majority lease interest is Federal (or Indian);

(2) The State jurisdictional agency will make the determination where the majority lease interest is private (or State); and

(3) The State jurisdictional agency will make the determination where the lease is divided equally.

(f) *Drilling units.* Unless an agreement under paragraph (e) of this section provides otherwise, where a drilling unit is drained by two or more wells, the Federal jurisdictional agency will make the determination if the completion location of the well in question is located on a Federal (or Indian) lease, and the State jurisdictional agency will make the determination if the completion location of the well in question is located on a private (or State) lease.

(g) *Agreements.* If a jurisdictional agency that has jurisdiction over Federal lands enters into an agreement with a jurisdictional agency that has jurisdiction over State lands that either authorizes the State jurisdictional agency to make determinations for wells located on Federal lands or the Federal agency to make determinations for wells located on State lands, such agreement shall be filed with the Commission. Upon the filing of such an agreement, the agency so authorized will be considered to be the jurisdictional agency for wells on the lands subject to the agreement.

Subpart E—Commission Review of Jurisdictional Agency Determinations

§ 270.501 Publication of notice from jurisdictional agency.

(a) Upon receipt of a notice of determination by a jurisdictional agency under § 270.204, the Commission will send an acknowledgment to the applicant and will post acknowledgment in the Commission's Public Reference Room and on the Commission's web site. Another source of the information is the Commission's copy contractor, RVJ International, Inc. RVJ International, Inc. is located in the Public Reference Room at 888 First Street, NE., Washington, DC 20426.

(b) The acknowledgment will contain the following:

(1) The date on which the jurisdictional agency notice was received;

(2) Certain information contained in FERC Form No. 121;

(3) A statement that the application and a copy or description of other materials in the record on which such determination was made is available for inspection, except to the extent the material is treated as confidential under § 270.506, at the offices of the Commission; and

(4) A statement that persons objecting to the final determination may, in accordance with this subpart, file a protest with the Commission within 20 days after the date that notice of receipt of a determination is issued by the Commission pursuant to this section.

§ 270.502 Commission review of final determinations.

(a) *Review by Commission.* Except as provided in paragraphs (b), (c) and (d)

of this section, a determination submitted to the Commission by a jurisdictional agency will become final 45 days after the date on which the Commission received notice of the determination, unless within the 45 day period, the Commission:

(1) Makes a preliminary finding that:

(i) The determination is not supported by substantial evidence in the record on which the determination was made; or

(ii) The determination is not consistent with information which is contained in the public records of the Commission and which was not part of the record on which the jurisdictional agency made the determination, and

(2) Issues written notice of such preliminary finding, including the reasons therefor. Copies of the written notice will be sent to the jurisdictional agency that made the determination, to the persons identified in the notice under § 270.204 of such determination, and to any persons who have filed a protest.

(b) *Incomplete notice.* Notwithstanding the provisions of paragraph (a) of this section, the 45-day period for Commission review of a determination will not begin if:

(1) The notice forwarded to the Commission pursuant to § 270.204 does not contain all the material specified therein; and

(2) The Commission notifies the jurisdictional agency, within 45 days after the date on which the Commission receives notice of the determination, that the notice is incomplete.

(c) *Withdrawal of notice.* (1) The jurisdictional agency may withdraw a notice of determination by giving notice as specified in paragraph (c)(2) of this section at any time prior to the issuance of a final order with respect to such determination under paragraphs (g)(1) and (g)(2) of this section, or at any time prior to the date such determination becomes final under paragraph (a) or (g)(4) of this section. Such notice must include the jurisdictional agency's reasons for the withdrawal.

(2) Withdrawal of a notice of determination will take effect at such time as the jurisdictional agency has notified the Commission, and the parties to the proceeding before the agency, of such withdrawal.

(3) Withdrawal of a notice of determination shall nullify such notice of determination.

(d) *Withdrawal of application.* (1) An applicant may withdraw an application for a determination which is before the Commission by giving notice as specified in paragraph (d)(2) of this section at any time prior to the issuance of a final order with respect to such determination under paragraphs (g)(1) and (g)(2) of this section, or at any time prior to the date such determination becomes final under paragraph (a) or (g)(4) of this section.

(2) Withdrawal of an application will take effect at such time as the applicant has notified the Commission and the jurisdictional agency.

(3) Withdrawal of an application will nullify such application and the notice of determination on such application.

(e) *Public notice.* The Commission will publish notice of the preliminary finding in the **Federal Register** and will post the notice in its Public Reference Room. The notice will set forth the reasons for the preliminary finding.

(f) *Procedures following notice of preliminary finding.* Any state or federal agency or any person may submit, within 30 days after issuance of the preliminary finding, written comments, and request an informal conference with the Commission staff. Any jurisdictional agency, any state agency and any person receiving notice under paragraph (a)(2) of this section may request an informal conference with the Commission staff. All timely requests for conferences will be granted. Notice of, and permission to attend, such conferences will be given to persons identified in paragraph (a)(2) of this section and to state or federal agencies or persons who submitted comments under this paragraph.

(g) *Final orders.* (1) In any case in which a protest was filed with the Commission and a preliminary finding was issued, the Commission will issue a final order within 120 days after issuance of the preliminary finding.

(2) In any case in which no protest was filed with the Commission and a preliminary finding was issued, the Commission may issue a final order within 120 days after issuance of the preliminary finding.

(3) A final order issued under paragraph (g)(1) or (g)(2) of this section will either affirm, reverse, or remand the determination of the jurisdictional agency. Such order will state the specific basis for the Commission's action. Notice of the issuance of such order will be given to the jurisdictional agency, to participants in the proceeding before the jurisdictional agency, and to participants in the proceeding before the Commission under paragraph (d) of this section and under § 270.503.

(4) In the event that the Commission fails to issue a final order within 120 days after issuance of the preliminary finding, the determination of the jurisdictional agency shall become final.

§ 270.503 Protests to the Commission.

(a) *Who may file.* Any person may file a protest with the Commission with respect to a determination of a jurisdictional agency within 20 days after the date that notice of receipt of a determination is issued by the Commission pursuant to § 270.204.

(b) *Grounds.* Protests may be based only on the grounds the final determination is:

(1) Not supported by substantial evidence;

(2) Not consistent with information which is contained in the public records of the Commission and which was not part of the record on which the determination was made;

(3) Not consistent with information submitted with the protests for inclusion in the public records of the Commission, which information was not part of the record on which the determination was made; or

(4) Not based on an application which complied with the filing requirements set forth in this part.

§ 270.504 Contents of protests to the Commission.

Each protest must include:

(a) An identification of the determination protested;

(b) The name and address of the person filing the protest;

(c) A statement of whether or not the person filing the protest participated in the proceeding before the jurisdictional agency, and if not, the reason for the nonparticipation;

(d) A statement of the effect the determination will have on the protestor;

(e) A statement of the precise grounds under § 270.503(f) for the protest, and all supporting documents or references to any information relied on which is in the record on which the determination is based or is in or to be inserted in the public files of the Commission; and

(f) A statement that the protestor has served, in accordance with § 385.2010 of this chapter, a copy of the protest together with all supporting documents on the jurisdictional agency and all persons listed in the notice of determination filed pursuant to § 270.204.

§ 270.505 Procedure for reopening determinations.

(a) *Grounds.* At any time subsequent to the time a determination becomes final pursuant to this subpart, the Commission, on its own motion, or in response to a petition filed by any person aggrieved or adversely affected by the determination, may reopen the determination if it appears that:

(1) In making the determination, the Commission or the jurisdictional agency relied on any untrue statement of material fact; or

(2) There was omitted a statement of material fact necessary in order to make the statements made not misleading, in light of the circumstances under which they were made to the jurisdictional agency or the Commission.

(b) *Contents of petition.* A petition to reopen the determination proceedings must contain the following information, under oath:

(1) The name and address of the person filing the petition;

(2) The interest of the petitioner in the outcome of the determination proceeding;

(3) The statement of material fact that is alleged to be untrue or omitted;

(4) A statement explaining why the outcome of the determination proceeding would have been different had the statement or omission not occurred; and

(5) Copies of all documents relied on by the petitioner, or references to such documents if they are contained in the public files of the Commission.

(c) *Procedures after reopening.* In the event the Commission reopens a determination pursuant to this section it will:

(1) Give notice to the jurisdictional agency and all persons who participated before both that agency and the Commission in the proceedings resulting in the determination in question;

(2) Permit the jurisdictional agency and other persons receiving notice pursuant to paragraph (c)(1) of this section to submit whatever documentary evidence such agency or persons deem relevant; and

(3) Take such other action or hold or cause to be held such proceedings as it deems necessary or appropriate for a full disclosure of the facts.

(d) *Final order of Commission.* Within 150 days after issuance of the notice under paragraph (c)(1) of this section, the Commission shall issue a final order. If the Commission finds that the grounds referred to in paragraph (a) of this section exist, it will vacate the determination.

§ 270.506 Confidentiality.

(a) Except as provided in paragraph (b) of this section, the Commission will accord confidential protection to, and not disclose to the public, any information submitted by a jurisdictional agency under § 270.204, if:

(1) The jurisdictional agency, on its own motion or on request of the applicant, afforded such information confidential treatment before the jurisdictional agency; and

(2) The agency order or the applicant's request stated grounds for confidential treatment which fall within one of the exemptions described in paragraphs (1) through (9) of 5 U.S.C. 552(b).

(b) Upon receipt of a request for disclosure of information treated as confidential under paragraph (a) of this section, the Commission will determine in accordance with 5 U.S.C. 552 whether the information is exempt. 5 U.S.C. 552(b). If it determines the information is not exempt, the information will be made public. If it determines the information is exempt, the Commission will not make it public unless determines that its conduct of the proceeding to review the jurisdictional agency determination requires making such information available to the public or to particular parties, subject to conditions (including a protective order) as the Commission may prescribe. Before making any information public under this paragraph, the Commission will provide at least 5 days notice to the person who submitted the information.

PART 375—THE COMMISSION

2. The authority citation for part 375 continues to read as follows:

Authority: 5 U.S.C. 551–557; 15 U.S.C. 717–717w, 3301–3432; 16 U.S.C. 791–825r, 2601–2645; 42 U.S.C. 7101–7352.

3. In § 375.307, paragraph (p) is added to read as follows:

§ 375.307 Delegation to the Director of the Office of Markets, Tariffs, and Rates

* * * * *

(p) Take the following actions under the Natural Gas Policy Act of 1978:

(1) Notify jurisdictional agencies within 45 days after the date on which the Commission receives notice of a determination pursuant to § 270.502(b) of this chapter that the notice is incomplete under § 270.204 of this chapter.

(2) Issue preliminary findings under § 270.502(a)(1) of this chapter.

PART 381—FEES

Subpart D—Fees Applicable to the Natural Gas Policy Act of 1978

4. The authority citation for part 381 continues to read as follows:

Authority: 15 U.S.C. 717–717w; 16 U.S.C.791–828c, 2601–2645; 31 U.S.C. 9701; 42 U.S.C. 7101–7352; 49 U.S.C. 60502; 49 App. U.S.C. 1–85.

5. Section 381.401 is added to read as follows:

§ 381.401 Review of jurisdictional agency determinations.

The fee established for review of a jurisdictional agency determination is $115. The fee must be submitted in accordance with subpart A of this part and § 270.301(c) of this chapter.

Note: The form and appendix that follow will not appear in the code of federal regulations.

Federal Energy Regulatory Commission

Washington D.C.

FERC Form–121

(1/2000)

Form Approved

OMB No. 1902–0038

(Expires)

Application for determination

General Instructions

1. *Purpose:* This form is to be used to provide basic data on each application for a well category determination that is filed with a Jurisdictional Agency to qualify the natural gas produced from such well as (a) occluded natural gas produced from coal seams, under section 107(c)(3) of the Natural Gas Policy Act of 1978 [15 U.S.C. 3301] (NGPA), (b) natural gas produced from Devonian shale, under section 107(c)(4) of the NGPA, or (c) natural gas produced from a designated tight formation, under section 107(c)(5) of the NGPA, in order to substantiate the eligibility of such natural gas for a tax credit under Section 29 of the Internal Revenue Code. The Commission will use this data, together with the other information contained in the Jurisdictional Agency's notice of determination, to evaluate whether substantial evidence exists to support the determination.

2. *Who must submit:* Anyone who files an application with a Jurisdictional Agency identified under Section 270.401 of the Commission's Regulations for a well category determination.

3. *What and where to submit:* The original of this form, and all of the information required by Section 270.302, 270.303, 270.304, or 270.306 of the Commission's Regulations must be filed with the Jurisdictional Agency. The Jurisdictional Agency making a determination must file the original of this form, with all of the other information required under the applicable Commission Regulations, with the Office of the Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington D.C. 20426. Applicants should retain one copy of each completed form for their files for 4 years.

4. These are mandatory filing requirements.

5. The data on this form are not considered confidential and will not be treated as such.

6. *Where to send comments on the public reporting burden:* The public reporting burden for this collection of information is estimated to average 0.25 hours per response, including the time for reviewing instructions, searching existing data sources, gathering

and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate, or any aspect of this collection of information, including suggestions for reducing this burden, to the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington D.C. 20426 (Attention: Mr. Michael Miller, CI–1) and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington D.C. 20503 (Attention: Desk Officer for the Federal Energy Regulatory Commission). Persons subject to providing this information will not be penalized for failing to respond to these collections of information unless the collection of information displays a valid OMB control number.

A. THE NGPA WELL CATEGORY DETERMINATION IS BEING SOUGHT FOR A WELL PRODUCING:

A1 __ occluded natural gas from coal seams.
A2 __ natural gas from Devonian shale.
A3 __ natural gas from a designated tight formation.

B. FOR ALL APPLICATIONS FOR DETERMINATION PROVIDE THE FOLLOWING:

1. Well Name and No.*
2. Completed in (Name of Reservoir)*
3. Field*
4. County*
5. State*
6. API Well No. (14 digits maximum. If not assigned, leave blank.)
9. Measured Depth of the Completed Interval (in feet)
   TOP
   BASE

C. APPLICANT'S MAILING ADDRESS AND THE IDENTITY OF THE PERSON WHO IS RESPONSIBLE FOR APPLICATION:

1. Applicant's Name*
2. Street*
3. City*
4. State*
5. Zip Code
6. Name of Person Responsible*
7. Title of Such Person*
8. Signature
   and Phone No. ( ) –

*Signifies that line entry may contain up to 35 letters and/or numbers.

Appendix—List of Commentors

Alabama State Oil & Gas Board
The American Gas Association
American Petroleum Institute
Burlington Resources Inc.
Calumet Oil
Coalbed Methane Association of Alabama
Colorado Oil and Gas Conservation Commission
Colorado Oil & Gas Association
Columbia Natural Resources
Cross Timbers Oil Company
United States Department of Energy
United States Department of Interior, Bureau of Land Management
Domestic Petroleum Council
Dominion Resources Inc.
Equitable Production Company
HS Resources, Inc.
Independent Oil and Gas Association
Independent Oil & Gas Association of New York
Independent Oil & Gas Association of Pennsylvania
Independent Oil & Gas Association of West Virginia
Independent Petroleum Association of America and Natural Gas Supply Association
Interstate Oil & Gas Compact Commission
Kansas Corporation Commission
Kentucky Public Service Commission
Louisiana Department of Natural Resources Office of Conservation
Marathon Oil Company
State of Michigan Department of Environmental Quality
New Mexico Oil & Gas Association
Non-Conventional Energy Inc.
New York State Department of Environmental Conservation
Northwest Fuel Development Inc
Ohio Department of Natural Resource
Oklahoma Corporation Commission
Producer Coalition
Railroad Commission of Texas
Texas Independent Producers & Royalty Owners
Union Pacific Resources
Vastar Resources, Inc
Virginia Department of Mines, Minerals & Energy
Virginia Oil & Gas Association
West Virginia Division of Environmental Protection
Williams Production Co.

[FR Doc. 00–18498 Filed 7–25–00; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 12

[T.D. 00–52]

RIN 1515–AC36

Forced or Indentured Child Labor

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations with the particular intent to stop illegal shipments of products of forced or indentured child labor and to punish violators. The document amends the Customs Regulations to provide for the seizure and forfeiture of merchandise that is found to be a prohibited importation under 19 U.S.C. 1307, concerning products of convict labor, forced labor, or indentured labor under penal sanctions, including forced or indentured child labor under penal sanctions. The amendment makes clear that nothing in the Customs Regulations precludes Customs from seizing for forfeiture merchandise imported in violation of applicable Federal criminal law dealing with prison-labor goods. The amendments form part of a vigorous law enforcement initiative undertaken by Customs to prohibit the importation of merchandise produced by forced or indentured child labor.

EFFECTIVE DATE: August 25, 2000.

FOR FURTHER INFORMATION CONTACT: Glen E. Vereb, Office of Regulations and Rulings, 202–927–2320.

SUPPLEMENTARY INFORMATION:

Background

Section 307 of the Tariff Act of 1930 (19 U.S.C. 1307) generally prohibits the importation of goods, wares, articles, and merchandise mined, produced, or manufactured wholly or in part in any foreign country by convict labor or/and forced labor or/and indentured labor under penal sanctions. Such prohibitions are enforced by Customs under §§ 12.42–12.44 of the Customs Regulations (19 CFR 12.42–12.44).

If Customs finds, on the basis of information presented and investigated under the procedures described in § 12.42(a)–(e), that a class of merchandise is subject to the prohibition under section 307, the Commissioner of Customs, with the approval of the Secretary of the Treasury, will publish a finding to this effect in the weekly issue of the Customs Bulletin and in the **Federal Register**, as prescribed in § 12.42(f).

Under § 12.43, an importer is afforded the opportunity to furnish proof within 3 months after importation in order to establish the admissibility of particular imported merchandise detained by Customs under § 12.42(e) or covered by a finding under § 12.42(f), that the particular merchandise being imported is not itself produced with the use of a type of labor specified in section 307.

Section 12.44 deals with the disposition of merchandise determined to be inadmissible under section 307. Currently, § 12.44 provides in pertinent part that such merchandise may be exported at any time within the 3–month period after importation. If not so exported and if no proof of admissibility has been provided, the importer is advised in writing that the merchandise is excluded from entry and, 60 days thereafter, the merchandise is deemed abandoned and will be destroyed unless it has been exported or a protest has been filed under 19 U.S.C. 1514.

Forced or Indentured Child Labor

A general provision in the Fiscal Year (FY) 1998 Treasury Appropriations Act

made clear what is implicit in the law: that merchandise manufactured with the use of forced or indentured child labor under penal sanctions falls within the prohibition of section 1307. This Act prohibits Customs from using any of the appropriation to permit the importation into the United States of such merchandise. In addition, in the last three State of the Union addresses, President Clinton has pledged to fight abusive child labor.

Following the enactment of the FY 1998 appropriations amendment regarding forced or indentured child labor under penal sanctions, both the Treasury Department and the National Economic Council chaired in-depth interagency discussions aimed at strengthening the capability of the Executive Branch to enforce the prohibition on imports that were produced by forced or indentured child labor under penal sanctions.

To this end, the Treasury Department, by a document published in the **Federal Register** (63 FR 30813) on June 5, 1998, established a Treasury Advisory Committee on International Child Labor Enforcement, whose ultimate purpose was to support a vigorous law enforcement initiative to stop illegal shipments of products of forced or indentured child labor under penal sanctions and to punish violators. By a document published in the **Federal Register** (65 FR 11831) on March 6, 2000, the Treasury Department determined that it was in the public interest to renew this Advisory Committee for an additional two-year term beyond its original expiration date (June 22, 2000).

Proposed Amendment

As part of the foregoing initiative, by a document published in the **Federal Register** (64 FR 62618) on November 17, 1999, Customs proposed to amend § 12.42(a) to make expressly clear that merchandise manufactured with the use of forced or indentured child labor under penal sanctions falls within the prohibition of 19 U.S.C. 1307.

Also, Customs proposed to amend § 12.44 regarding the disposition to be accorded merchandise that is a prohibited importation under section 307. Under this proposed amendment, in the case of merchandise covered by a finding under § 12.42(f), if the Commissioner of Customs advised the port director that the proof furnished under § 12.43 did not establish the admissibility of a particular importation of such merchandise, or if no proof was timely furnished in this regard, the merchandise would then be seized and be subject to the commencement of forfeiture proceedings under subpart E of part 162 of the Customs Regulations (19 CFR part 162, subpart E). Currently, such merchandise is permitted to be exported at any time before it is deemed to have been abandoned.

In addition, Customs proposed to amend § 12.44 to state explicitly that nothing in the Customs Regulations (19 CFR Chapter I) precluded Customs from seizing for forfeiture merchandise imported in violation of applicable Federal criminal law (18 U.S.C. 1761–1762) dealing with prison-labor goods.

Discussion of Comment

Counsel on behalf of a domestic trade association submitted the only comment in response to the notice of proposed rulemaking. The trade association supported the proposed amendments. However, the association asked that § 12.42 also be amended to impose a one-year time limit within which Customs would need to complete, and take appropriate action in connection with, an investigation undertaken pursuant to 19 U.S.C. 1307. In this regard, the association wanted § 12.42 further revised to require that persons presenting information of an alleged violation of section 1307 be kept informed, along with any interested domestic producers, and any other interested parties, regarding the continuing progress of an investigation. Finally, the association requested that § 12.42(e) be amended to require that the Commissioner withhold release of any merchandise undergoing investigation for a possible violation of 19 U.S.C. 1307 if there were reasonable grounds to believe that the merchandise was indeed a prohibited importation under section 1307.

Customs Response

Customs believes that it would be inappropriate and counterproductive to impose an inflexible time limit in § 12.42 for any investigation initiated under 19 U.S.C. 1307. The quality of the information received regarding suspected violations of section 1307 varies substantially in each case. Extensive and lengthy investigation is required in some cases, and significant barriers (*e.g.,* cultural, political, geographic) must be overcome, in order to obtain the evidence needed to support lawful Customs action under the statute. Also, the disclosure of information regarding ongoing Customs investigations is generally contrary to agency policy.

Lastly, § 12.42(e) already provides that if the Commissioner of Customs finds at any time that information available reasonably but not conclusively indicates that merchandise within the purview of section 1307 is being, or is likely to be, imported, the Commissioner will notify all port directors accordingly. The port directors are then to withhold the release of any such merchandise pending instructions from the Commissioner as to whether the merchandise may be released otherwise than for exportation. Customs believes that this is sufficient and that no amendment of § 12.42(e) is needed under the circumstances.

Conclusion

In view of the foregoing, and following careful consideration of the issues raised by the commenter and further review of the matter, Customs has concluded that the proposed amendments should be adopted.

Additional Changes

In addition, Customs has determined that the phrase, ''including forced or indentured child labor'', appearing in proposed § 12.42(a), should be revised to read, ''including forced or indentured child labor under penal sanctions'', in order to conform precisely with the plain language and requirements of 19 U.S.C. 1307. Also, proposed § 12.44 is revised essentially to retain the provision contained in the current regulation (19 CFR 12.44 (1999)) regarding the disposition to be accorded merchandise that has been detained under § 12.42(e) but that is not subject to a finding under § 12.42(f).

Regulatory Flexibility Act and Executive Order 12866

Because the importation of goods, wares, articles, and merchandise mined, produced or manufactured wholly or in part in any foreign country by forced labor is prohibited, Customs anticipates that there will not be a substantial number of small entities that would become involved in a prohibited importation. The rule applies to products subject to a ''finding'' that the class of merchandise was produced with forced or indentured child labor under penal sanctions, a more formal Customs action with a higher burden of proof than simple Customs detention of merchandise based on reasonable suspicion. Also the range of countries and products which are likely to be implicated in findings of forced or indentured child labor under penal sanctions is likely to be fairly narrow. Accordingly, it is certified, in accordance with the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) that this final rule will not have a significant economic impact on a substantial number of small entities. Nor does the

document meet the criteria for a ''significant regulatory action'' as specified in E.O. 12866.

List of Subjects in 19 CFR Part 12

Customs duties and inspection, Entry of merchandise, Imports, Prohibited merchandise, Restricted merchandise, Seizure and forfeiture.

Amendments to the Regulations

Part 12, Customs Regulations (19 CFR part 12), is amended as set forth below.

PART 12—SPECIAL CLASSES OF MERCHANDISE

1. The general authority citation for part 12 continues to read as follows, and the relevant specific sectional authority is revised to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 66, 1202 (General Note 20, Harmonized Tariff Schedule of the United States (HTSUS)), 1624;

* * * * *

Sections 12.42 through 12.44 also issued under 19 U.S.C. 1307 and Pub. L. 105–61 (111 Stat. 1272);

* * * * *

2. Section 12.42 is amended by revising the first sentence of paragraph (a) to read as follows:

§ 12.42 Findings of Commissioner of Customs.

(a) If any port director or other principal Customs officer has reason to believe that any class of merchandise that is being, or is likely to be, imported into the United States is being produced, whether by mining, manufacture, or other means, in any foreign locality with the use of convict labor, forced labor, or indentured labor under penal sanctions, including forced child labor or indentured child labor under penal sanctions, so as to come within the purview of section 307, Tariff Act of 1930, he shall communicate his belief to the Commissioner of Customs. * * *

* * * * *

3. Section 12.44 is revised to read as follows:

§ 12.44 Disposition.

(a) *Export and abandonment.* Merchandise detained pursuant to § 12.42(e) may be exported at any time prior to seizure pursuant to paragraph (b) of this section, or before it is deemed to have been abandoned as provided in this section, whichever occurs first. Provided no finding has been issued by the Commissioner of Customs under § 12.42(f) and the merchandise has not been exported within 3 months after the date of importation, the port director will ascertain whether the proof specified in § 12.43 has been submitted within the time prescribed in that section. If the proof has not been timely submitted, or if the Commissioner of Customs advises the port director that the proof furnished does not establish the admissibility of the merchandise, the port director will promptly advise the importer in writing that the merchandise is excluded from entry. Upon the expiration of 60 days after the delivery or mailing of such advice by the port director, the merchandise will be deemed to have been abandoned and will be destroyed, unless it has been exported or a protest has been filed as provided for in section 514, Tariff Act of 1930.

(b) *Seizure and summary forfeiture.* In the case of merchandise covered by a finding under § 12.42(f), if the Commissioner of Customs advises the port director that the proof furnished under § 12.43 does not establish the admissibility of the merchandise, or if no proof has been timely furnished, the port director shall seize the merchandise for violation of 19 U.S.C. 1307 and commence forfeiture proceedings pursuant to part 162, subpart E, of this chapter.

(c) *Prison-labor goods.* Nothing in this chapter precludes Customs from seizing for forfeiture merchandise imported in violation of 18 U.S.C. 1761 and 1762 concerning prison-labor goods.

Raymond W. Kelly,

Commissioner of Customs.

Approved: June 19, 2000.

John P. Simpson,

Deputy Assistant Secretary of the Treasury.

[FR Doc. 00–18819 Filed 7–25–00; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration, HHS

21 CFR Part 510

New Animal Drugs; Change of Sponsor Address

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect a change of sponsor address for Wellmark International.

DATES: This rule is effective July 26, 2000.

FOR FURTHER INFORMATION CONTACT: Norman Turner, Center for Veterinary Medicine (HFV–102), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–0214.

SUPPLEMENTARY INFORMATION: Wellmark International, 1000 Tower Rd., suite 245, Bensenville, IL 60106, has informed FDA of a change of sponsor address to 1100 East Woodfield Rd., suite 500, Schaumburg, IL 60173. Accordingly, the agency is amending the regulations in 21 CFR 510.600(c)(1) and (c)(2) to reflect the change of sponsor address.

This rule does not meet the definition of ''rule'' in 5 U.S.C. 804(3)(A), because it is a rule of ''particular applicability.'' Therefore, it is not subject to congressional review requirements in 5 U.S.C. 801–808.

List of Subjects in 21 CFR Part 510

Administrative practice and procedure, Animal drugs, Labeling, Reporting and recordkeeping requirements.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 510 is amended as follows:

PART 510—NEW ANIMAL DRUGS

1. The authority citation for 21 CFR part 510 continues to read as follows:

Authority: 21 U.S.C. 321, 331, 351, 352, 353, 360b, 371, 379e.

2. Section 510.600 is amended in the table in paragraph (c)(1) by revising the entry for ''Wellmark International'' and in the table in paragraph (c)(2) by revising the entry for ''011536'' to read as follows:

§ 510.600 Names, addresses, and drug labeler codes of sponsors of approved applications.

* * * * *

(c) * * *

(1) * * *

Firm name and address	Drug labeler code
* * * * * * *	
Wellmark International, 1100 East Woodfield Rd., suite 500, Schaumburg, IL 60173	011536
* * * * * * *	

(2) * * *

Drug labeler code	Firm name and address
011536	Wellmark International, 1100 East Woodfield Rd., suite 500, Schaumburg, IL 60173
* * * * * * *	

Dated: July 18, 2000.

Claire M. Lathers,

Director, Office of New Animal Drug Evaluation, Center for Veterinary Medicine.

[FR Doc. 00–18824 Filed 7–25–00; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 520

Oral Dosage Form New Animal Drugs; Ivermectin Sustained-Release Bolus

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed by Merial Ltd. The supplemental NADA provides for changes to labeling of ivermectin sustained-release bolus for cattle.

DATES: This rule is effective July 26, 2000.

FOR FURTHER INFORMATION CONTACT: Janis R. Messenheimer, Center for Veterinary Medicine (HFV–135), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–7578.

SUPPLEMENTARY INFORMATION: Merial Ltd., 2100 Ronson Rd., Iselin, NJ 08830–3077, filed a supplement to NADA 140–988 that provides for use of Ivomec® (ivermectin) SR bolus for cattle. The supplement provides for reducing the predicted duration of effectiveness in labeling from approximately 135 days to approximately 130 days, based on bolus stability data. The supplement is approved as of June 21, 2000, and the regulations in 21 CFR 520.1197 are amended to reflect the approval. The basis of approval is discussed in the freedom of information summary.

In accordance with the freedom of information provisions of part 20 (21 CFR part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, between 9 a.m. and 4 p.m., Monday through Friday.

The agency has determined under 21 CFR 25.24(a)(1) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

This rule does not meet the definition of ''rule'' in 5 U.S.C. 804(3)(A) because it is a rule of ''particular applicability.'' Therefore, it is not subject to the congressional review requirements in 5 U.S.C. 801–808.

List of Subjects in 21 CFR Part 520

Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 520 is amended as follows:

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS

1. The authority citation for 21 CFR part 520 continues to read as follows:

Authority: 21 U.S.C., 360b.

§ 520.1197 [Amended]

2. Section 520.1197 *Ivermectin sustained-release bolus* is amended in paragraph (d)(2) by removing the parenthetical phrase ''(approximately 135 days)'' and by adding in its place '' (approximately 130 days)''.

Dated: July 18, 2000.

Claire M. Lathers,

Director, New Animal Drug Evaluation, Center for Veterinary Medicine.

[FR Doc. 00–18827 Filed 7–25–00; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 520 and 522

New Animal Drugs; Change of Sponsor

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect a change of sponsor for 12 approved new animal drug applications (NADA's) from Merial Ltd. to Phoenix Scientific, Inc.

DATES: This rule is effective July 26, 2000.

FOR FURTHER INFORMATION CONTACT: Thomas J. McKay, Center for Veterinary Medicine (HFV–102), Food and Drug

Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–0213.

SUPPLEMENTARY INFORMATION: Merial Ltd., 2100 Ronson Rd., Iselin, NJ 08830–3077, has informed FDA that it has transferred ownership of, and all rights and interests in, the following approved NADA's to Phoenix Scientific, Inc., 3915 South 48th St. Terrace, PO Box 6457, St. Joseph, MO 64506–0457:

NADA No.	Product Name
033–157	SPECTAM® (spectinomycin) Scour Halt
040–040	SPECTAM® (spectinomycin) Injection
045–416	BUTATRON™ (phenylbutazone) Injection
048–287	Oxytetracycline-50 (oxytetracycline) Injection
055–002	TEVOCIN (chloramphenicol) Injection
093–483	SPECTAM® (spectinomycin) Injectable
119–142	PVL Iron Dextran Injectable
123–815	Dexamethasone Sodium Phosphate Injection
124–241	PVL Oxytocin Injection
128–089	ZONOMETH (dexamethasone) Sterile Solution
200–147	GENTA–JECT® (gentamicin sulfate) Injection
200–153	NEO 200 (neomycin sulfate) Oral Solution

Accordingly, the agency is amending the regulations in parts 520 and 522 (21 CFR parts 520 and 522) in §§ 520.1485, 520.2122, 522.390, 522.540, 522.1044, 522.1183, 522.1662a, 522.1680, and 522.2120 to reflect the transfer of ownership. An entry for Phoenix Scientific, Inc., already exists in § 522.1720 *Phenylbutazone Injection* following the approval of a supplemental ANADA 200–126 (61 FR 54332, October 18, 1996).

This rule does not meet the definition of ''rule'' in 5 U.S.C. 804(3)(A) because it is a rule of ''particular applicability.'' Therefore, it is not subject to the congressional review requirements in 5 U.S.C. 801–808.

List of Subjects in 21 CFR Parts 520 and 522

Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR parts 520 and 522 are amended as follows:

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS

1. The authority citation for 21 CFR part 520 continues to read as follows:

Authority: 21 U.S.C. 360b.

§ 520.1485 [Amended]

2. Section 520.1485 *Neomycin sulfate oral solution* is amended in paragraph (b) by removing ''050604''.

§ 520.2122 [Amended]

3. Section 520.2122 *Spectinomycin dihydrochloride oral solution* is amended in paragraph (b)(1) by removing ''050604'' and adding in its place ''059130''.

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS

4. The authority citation for 21 CFR part 522 continues to read as follows:

Authority: 21 U.S.C. 360b.

§ 522.390 [Amended]

5. Section 522.390 *Chloramphenicol injection* is amended in paragraph (b) by removing ''050604'' and adding in its place ''059130''.

§ 522.540 [Amended]

6. Section 522.540 *Dexamethasone injection* is amended in paragraphs (d)(2)(i) and (e)(2) by removing ''050604'' and adding in its place ''059130''.

§ 522.1044 [Amended]

7. Section 522.1044 *Gentamicin sulfate injection* is amended in paragraph (b)(4) by removing ''050604'' and adding in its place ''059130''.

§ 522.1183 [Amended]

8. Section 522.1183 *Iron hydrogenated dextran injection* is amended in paragraph (e)(1) by removing ''050604'' and adding in its place ''059130''.

§ 522.1662a [Amended]

9. Section 522.1662a *Oxytetracycline hydrochloride injection* is amended in paragraph (i)(2) by removing ''050604'' and adding in its place ''059130''.

§ 522.1680 [Amended]

10. Section 522.1680 *Oxytocin injection* is amended in paragraph (b) by removing ''050604'' and adding in its place ''059130''.

§ 522.2120 [Amended]

11. Section 522.2120 *Spectinomycin dihydrochloride injection* is amended in paragraph (b) by removing ''050604'' and adding in its place ''059130''.

Dated: July 18, 2000.

Claire M. Lathers,

Director, Office of New Animal Drug Evaluation, Center for Veterinary Medicine.

[FR Doc. 00–18828 Filed 7–25–00; 8:45 am]

BILLING CODE4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 522

Implantation or Injectable Dosage Form New Animal Drugs; Ketamine Hydrochloride Injection

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of an abbreviated new animal drug application (ANADA) filed by Abbott Laboratories. The ANADA provides for intramuscular use of ketamine hydrochloride injection in cats for restraint or as the sole anesthetic agent for diagnostic or minor, brief, surgical procedures that do not require skeletal muscle relaxation, and in nonhuman primates for restraint. The drug is for veterinary prescription use only.

DATES: This rule is effective July 26, 2000.

FOR FURTHER INFORMATION CONTACT: Lonnie W. Luther, Center For Veterinary Medicine (HFV–102), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–0209.

SUPPLEMENTARY INFORMATION: Abbott Laboratories, Chemical and Agricultural Products Division, 1401 Sheridan Rd., North Chicago, IL 60064–6316, filed ANADA 200–279 that provides for intramuscular use of Ketaflo™ (ketamine hydrochloride injection, USP) containing the equivalent of 100 milligrams of ketamine base per milliliter (mg/mL) of sterile solution. The product is for veterinary prescription use, in cats for restraint or as the sole anesthetic agent for diagnostic or minor, brief, surgical procedures that do not require skeletal muscle relaxation, and in nonhuman primates for restraint.

Approval of Abbott Laboratories' ANADA 200–279 for Ketaflo™ (ketamine hydrochloride injection, USP) is as a generic copy of Fort Dodge Laboratories' NADA 45–290 for Vetalar® (ketamine hydrochloride injection equivalent to 100 mg/mL ketamine). The ANADA is approved as of June 13, 2000, and the regulations are amended in 21 CFR 522.1222a(c) to reflect the approval. The basis of approval is discussed in the freedom of information summary.

In accordance with the freedom of information provisions of 21 CFR part 20 and 514.11(e)(2)(ii), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, between 9 a.m. and 4 p.m., Monday through Friday.

The agency has determined under 21 CFR 25.33(a)(1) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

This rule does not meet the definition of ''rule'' in 5 U.S.C. 804(3)(A) because it is a rule of ''particular applicability.'' Therefore, it is not subject to the congressional review requirements in 5 U.S.C. 801–808.

List of Subjects in 21 CFR Part 522

Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 522 is amended as follows:

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS

1. The authority citation for 21 CFR part 522 continues to read as follows:

Authority: 21 U.S.C. 360b.

§ 522.1222a [Amended]

2. Section 522.1222a *Ketamine hydrochloride injection* is amended in paragraph (c) by adding the number ''000074,'' after the number ''000010,''.

Dated: July 17, 2000.

Stephen F. Sundlof,

Director, Center for Veterinary Medicine.

[FR Doc. 00–18871 Filed 7–25–00; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 522

Implantation or Injectable Dosage Form New Animal Drugs; Change of Sponsor

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect a change of sponsor for an approved new animal drug application (NADA) from Heska Corp. to Pharmacia & Upjohn Co.

DATES: This rule is effective July 26, 2000.

FOR FURTHER INFORMATION CONTACT: Thomas J. McKay, Center for Veterinary Medicine (HFV–102), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–0213.

SUPPLEMENTARY INFORMATION: Heska Corp., 1825 Sharp Point Dr., Fort Collins, CO 80525, has informed FDA that it has transferred to Pharmacia & Upjohn Co., 7000 Portage Rd., Kalamazoo, MI 49001–0199 ownership of, and all rights and interests in NADA 141–082. Accordingly, the agency is amending the regulations in 21 CFR 522.778 to reflect the transfer of ownership.

This rule does not meet the definition of ''rule'' in 5 U.S.C. 804(3)(A) because it is a rule of ''particular applicability.'' Therefore, it is not subject to the congressional review requirements in 5 U.S.C. 801–808.

List of Subjects in 21 CFR Part 522

Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 522 is amended as follows:

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS

1. The authority citation for 21 CFR part 522 continues to read as follows:

Authority: 21 U.S.C. 360b.

§ 522.778 [Amended]

2. Section 522.778 *Doxycycline hyclate* is amended in paragraph (b) by removing ''063604'' and adding in its place ''000009''.

Dated: July 18, 2000.

Claire M. Lathers,

Director, Office of New Animal Drug Evaluation, Center for Veterinary Medicine.

[FR Doc. 00–18825 Filed 7–25–00; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 522

Implantation or Injectable Dosage Form New Animal Drugs; Trenbolone and Estradiol

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of two supplemental new animal drug applications (NADA's) filed by Hoechst Roussel Vet. The supplemental NADA's provide for use of two additional trenbolone acetate and estradiol ear implants, one for heifers fed in confinement for slaughter for increased rate of weight gain, and the other for steers fed in confinement for slaughter for increased rate of weight gain and improved feed efficiency.

DATES: This rule is effective July 26, 2000.

FOR FURTHER INFORMATION CONTACT: Jack Caldwell, Center for Veterinary Medicine (HFV–126), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–0217.

SUPPLEMENTARY INFORMATION: Hoechst Roussel Vet, Perryville Corporate Park III, PO Box 4010, Clinton, NJ 08809–4010, filed supplemental NADA 140–897 that provides for Revalor®-IS ear implants containing 80 milligrams (mg) trenbolone acetate (TBA) and 16 mg estradiol for steers fed in confinement for slaughter for increased rate of weight gain and improved feed efficiency. Hoechst Roussel Vet also filed supplemental NADA 140–992 that provides for Revalor®-IH ear implants containing 80 mg TBA and 8 mg estradiol for heifers fed in confinement for slaughter for increased rate of weight gain.

The supplemental NADA's are approved as of June 19, 2000, and the regulations are amended in 21 CFR 522.2477 to reflect the approvals. The basis of approval is discussed in the freedom of information summaries.

In accordance with the freedom of information provisions of 21 CFR part 20 and 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of these applications may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, between 9 a.m. and 4 p.m., Monday through Friday.

Under section 512(c)(2)(F)(iii) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b(c)(2)(F)(iii)), these approvals for food-producing animals qualify for 3 years of marketing exclusivity beginning June 19, 2000, because the applications contain substantial evidence of the effectiveness of the drugs involved, any studies of animal safety or, in the case of food-producing animals, human food safety studies (other than bioequivalence or residue studies) required for approval of the applications and conducted or sponsored by the applicant. The 3 years of marketing exclusivity applies only to the implants approved in these supplemental NADA's.

The agency has determined under 21 CFR 25.33(a)(2) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

This rule does not meet the definition of ''rule'' in 5 U.S.C. 804(3)(A) because it is a rule of ''particular applicability.'' Therefore, it is not subject to the congressional review requirements in 5 U.S.C. 801–808.

List of Subjects in 21 CFR Part 522

Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 522 is amended as follows:

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS

1. The authority citation for 21 CFR part 522 continues to read as follows:

Authority: 21 U.S.C. 360b.

2. Section 522.2477 is amended by revising the first sentence in paragraph (b), by adding paragraph (d)(1)(i)(D), and by revising paragraphs (d)(2)(i) and (d)(2)(ii) to read as follows:

§ 522.2477 Trenbolone acetate and estradiol.

* * * * *

(b) See 012799 in § 510.600(c) of this chapter for use as in paragraphs (d)(1)(i)(A), (d)(1)(i)(C), (d)(1)(i)(D), (d)(1)(ii), (d)(1)(iii), (d)(2)(i)(A), (d)(2)(i)(B), (d)(2)(ii), (d)(2)(iii), and (d)(3) of this section. * * *

* * * * *

(d) * * *

(1) * * *

(i) * * *

(D) 80 mg trenbolone acetate and 16 mg estradiol (one implant consisting of 4 pellets), or 120 mg trenbolone acetate and 24 mg estradiol (one implant consisting of 6 pellets, each pellet containing 20 mg trenbolone acetate and 4 mg estradiol) per implant dose.

(2) * * *

(i) *Amount.* (A) 140 mg trenbolone acetate and 14 mg estradiol (one implant consisting of 7 pellets, each pellet containing 20 mg trenbolone acetate and 2 mg estradiol) per implant dose for use as in paragraphs (d)(2)(ii)(A) and (d)(2)(ii)(B) of this section.

(B) 80 mg trenbolone acetate and 8 mg estradiol (one implant consisting of 4 pellets, each pellet containing 20 mg trenbolone acetate and 2 mg estradiol) per implant dose for use as in paragraph (d)(2)(ii)(B) of this section.

(ii) *Indications for use.* (A) For increased rate of weight gain and improved feed efficiency.

(B) For increased rate of weight gain.

* * * * *

Dated: July 18, 2000.

Claire M. Lathers,

Director, Office of New Animal Drug Evaluation, Center for Veterinary Medicine.

[FR Doc. 00–18822 Filed 7–25–00; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Monensin

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed by Elanco Animal Health. The supplemental NADA provides for use of monensin Type A medicated article to make Type C medicated feed formulated as mineral granules for free-choice feeding for the prevention and control of coccidiosis, and increased rate of weight gain in pasture cattle (slaughter, stocker, feeder, and dairy and beef replacement heifers). A technical correction is also being made.

DATES: This rule is effective July 26, 2000.

FOR FURTHER INFORMATION CONTACT: Janis R. Messenheimer, Center for Veterinary Medicine (HFV–130), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–7578.

SUPPLEMENTARY INFORMATION: Elanco Animal Health, A Division of Eli Lilly & Co., Lilly Corporate Center, Indianapolis, IN 46285, filed supplemental NADA 95–735 that provides for use of RUMENSIN® 80 (80 grams per pound (g/lb) of monensin as monensin sodium) Type A medicated article to make Type C medicated feed formulated as mineral granules for free-choice feeding to pasture cattle. The free-choice medicated mineral granules contain 1,620 g/ton monensin and are used for prevention and control of coccidiosis caused by *Eimeria bovis* and *E. zuernii*, and for increased rate of weight gain in pasture cattle (slaughter, stocker, feeder, and dairy and beef replacement heifers). The supplemental NADA is approved as of July 7, 2000, and the regulations are amended in § 558.355(f)(3)(x) (21 CFR 558.355(f)(3)(x)) to reflect the approval. The basis of approval is discussed in the freedom of information summary.

In addition, § 558.355(d)(6) is revised to reflect current precautionary statements regarding the ingestion of monensin-containing formulations by unapproved species.

In accordance with the freedom of information provisions of 21 CFR part 20 and 514.11(e)(2)(ii), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, between 9 a.m. and 4 p.m., Monday through Friday.

The agency has determined under 21 CFR 25.33(a)(1) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

This rule does not meet the definition of ''rule'' in 5 U.S.C. 804(3)(A) because it is a rule of ''particular applicability.'' Therefore, it is not subject to the congressional review requirements in 5 U.S.C. 801–808.

List of Subjects in 21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 558 is amended as follows:

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

1. The authority citation for 21 CFR part 558 continues to read as follows:

Authority: 21 U.S.C. 360b, 371.

2. Section 558.355 is amended by revising paragraphs (d)(6), (f)(3)(x)(*a*), and (f)(3)(x)(*c*) to read as follows:

§ 558.355 Monensin.

* * * * *

(d) * * *

(6) The labeling of all formulations containing monensin shall bear the following caution statement: Do not allow horses, other equines, mature turkeys, or guinea fowl access to feed containing monensin. Ingestion of monensin by horses and guinea fowl has been fatal.

* * * * *

(f) * * *

(3) * * *

(x) * * *

(*a*) *Indications for use.* For increased rate of weight gain; and for prevention and control of coccidiosis caused by *Eimeria bovis* and *E. zuernii* in pasture cattle (slaughter, stocker, feeder, and dairy and beef replacement heifers).

* * * * *

(*c*) *Limitations.* For free-choice feeding to pasture cattle (slaughter, stocker, feeder, and dairy and beef replacement heifers) at a rate of 50 to 200 milligrams per head per day. During the first 5 days of feeding, cattle should receive no more than 100 milligrams per day. Do not feed additional salt or minerals. Do not mix with grain or other feeds. Monensin is toxic to cattle when consumed at higher than approved levels. Stressed and/or feed- and/or water-deprived cattle should be adapted to the pasture and to unmedicated mineral supplement before using the monensin mineral supplement. Do not feed to lactating dairy cattle. The product's effectiveness in cull cows and bulls has not been established. Consumption by unapproved species may result in toxic reactions. A feed manufacturing facility must possess a medicated feed mill license issued under § 515.20 of this chapter in order to manufacture this free-choice Type C feed.

* * * * *

Dated: July 18, 2000.

Claire M. Lathers,

Director, Office of New Animal Drug Evaluation, Center for Veterinary Medicine.

[FR Doc. 00–18821 Filed 7–25–00; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Penicillin; Technical Amendment

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule; technical amendment.

SUMMARY: The Food and Drug Administration (FDA) is updating the animal drug regulations to correctly reflect a previously approved 227 grams per pound (g/lb) strength of penicillin G Type A medicated article for use in the feed of several domestic species which was omitted from the regulation in the 1998 notice of approval.

DATES: This rule is effective July 26, 2000.

FOR FURTHER INFORMATION CONTACT: Dianne T. McRae, Center for Veterinary Medicine (HFV–102), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–0212.

SUPPLEMENTARY INFORMATION: Pfizer, Inc., 235 East 42d St., New York, NY 10017–5755, is sponsor of NADA 046–668 that provides for use of Penicillin 100 (100 g/lb penicillin G procaine) and Penicillin 50 (227 g/lb penicillin G procaine) Type A medicated articles to make Type C medicated feeds used for increased rate of weight gain and improved feed efficiency in poultry and swine. In its approval letter of April 10, 1998, to Pfizer, Inc., the Center for Veterinary Medicine approved the use of these products to make Type C medicated feeds, but did not codify the approval of the 227 g/lb strength of Type A medicated article for this sponsor (63 FR 36179, July 2, 1998). At this time, 21 CFR 558.460(b) is amended by adding the 227 g/lb strength of Type A medicated article to reflect the 1998 approval.

This rule does not meet the definition of ''rule'' in 5 U.S.C. 804(3)(A) because it is a rule of ''particular applicability.'' Therefore, it is not subject to the congressional review requirements in 5 U.S.C. 801–808.

List of Subjects in 21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 558 is amended as follows:

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

1. The authority citation for 21 CFR part 558 continues to read as follows:

Authority: 21 U.S.C. 360b, 371.

§ 558.460 [Amended]

2. Section 558.460 *Penicillin* is amended in the first sentence in paragraph (b) by adding ''and 227'' after ''To 000069, 100''.

Dated: July 18, 2000.

Claire M. Lathers,

Director, Office of New Animal Drug Evaluation, Center for Veterinary Medicine.

[FR Doc. 00–18872 Filed 7–25–00; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Neomycin Sulfate

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed by Pharmacia & Upjohn Co. The supplemental NADA provides for the use of neomycin sulfate Type A medicated articles to make Type B and Type C medicated feeds for cattle, swine, sheep, and goats in a broader range of concentrations.

DATES: This rule is effective July 26, 2000.

FOR FURTHER INFORMATION CONTACT: Dianne T. McRae, Center for Veterinary Medicine (HFV–102), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–0212.

SUPPLEMENTARY INFORMATION: Pharmacia & Upjohn Co., 7000 Portage Rd., Kalamazoo, MI 49001–0199, has filed a supplemental application to NADA 140–976 that provides for use of Neomix® (neomycin sulfate) Type A medicated articles to make Type B and Type C medicated feeds for cattle, swine, sheep, and goats used for the treatment and control of colibacillosis (bacterial enteritis) caused by *Escherichia coli* susceptible to neomycin. The supplemental NADA requested that the approved range of concentrations for neomycin Type C medicated feeds of 400 to 1,600 grams per ton (g/ton) be broadened to 250 to 2,250 g/ton. The approved daily dose of 10 milligrams per pound of body weight remains unchanged. The supplemental NADA is approved as of June 28, 2000, and the regulations are amended in 21 CFR 558.364 to reflect the approval.

Approval of this supplemental NADA does not require additional safety and effectiveness data. Therefore, a freedom of information summary is not required.

The agency has determined under 21 CFR 25.33(a)(1) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

This rule does not meet the definition of ''rule'' in 5 U.S.C. 804(3)(A), because it is a rule of ''particular applicability.'' Therefore, it is not subject to congressional review requirements in 5 U.S.C. 801–808.

List of Subjects in 21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 558 is amended as follows:

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

1. The authority citation for 21 CFR part 558 continues to read as follows:

Authority: 21 U.S.C. 360b, 371.

§ 558.364 [Amended]

2. Section 558.364 *Neomycin sulfate* is amended in the table in paragraph (d) in entry ''(1)'' under ''Neomycin sulfate'' by removing ''400 to 1,600'' and by adding in its place ''250 to 2,250''.

Dated: July 18, 2000.

Claire M. Lathers,

Director, Office of New Animal Drug Evaluation, Center for Veterinary Medicine.

[FR Doc. 00–18826 Filed 7–25–00; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Chlortetracycline

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed by Alpharma, Inc. The supplemental NADA provides for use of approved chlortetracycline (CTC) Type A medicated articles to make Type C medicated feeds used for control of porcine proliferative enteropathies (ileitis) in swine.

DATES: This rule is effective July 26, 2000.

FOR FURTHER INFORMATION CONTACT: Diane D. Jeang, Center for Veterinary Medicine (HFV–133), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–7574.

SUPPLEMENTARY INFORMATION: Alpharma Inc., One Executive Dr., PO Box 1399, Fort Lee, NJ 07024, filed a supplement to approved NADA 046–699 that provides for use of CHLORMAX™ (50, 65, or 70 grams per pound (g/lb) chlortetracycline as chlortetracycline hydrochloride) Type A medicated articles to make Type C medicated feeds for use in growing and finishing swine. The Type C medicated feeds contain approximately 400 g per ton CTC (to provide 10 milligrams/lb body weight) and are used for the control of porcine proliferative enteropathies (ileitis) caused by *Lawsonia intracellularis* susceptible to chlortetracycline. The supplemental NADA is approved as of July 7, 2000, and the regulations are amended in 21 CFR 558.128 to reflect the approval. The basis of approval is discussed in the freedom of information summary.

In accordance with the freedom of information provisions of 21 CFR part 20 and 514.11(e)(2)(ii), a summary of safety and effectiveness data and information submitted to support approval of this supplemental application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, between 9 a.m. and 4 p.m., Monday through Friday.

Under section 512(c)(2)(F)(iii) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b(c)(2)(F)(iii)), this approval for food-producing animals qualifies for 3 years of marketing exclusivity beginning on July 7, 2000, because the application contains substantial evidence of the effectiveness of the drug involved, any studies of animal safety, or in the case of food-producing animals, human food safety studies (other than bioequivalence or residue studies) required for the approval of the application and conducted or sponsored by the applicant. The 3 years of marketing exclusivity applies only to the new claim for which the supplemental application was approved.

The agency has determined under 21 CFR 25.33(a)(1) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

This rule does not meet the definition of ''rule'' in 5 U.S.C. 804(3)(A) because it is a rule of ''particular applicability.'' Therefore, it is not subject to the congressional review requirements in 5 U.S.C. 801–808.

List of Subjects in 21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 558 is amended as follows:

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

1. The authority citation for 21 CFR part 558 continues to read as follows:

Authority: 21 U.S.C. 360b, 371.

2. Section 558.128 is amended in the table in paragraph (d)(1)(xii) by adding an entry ''4.'' to read as follows:

§ 558.128 Chlortetracycline.

* * * * *

(d) * * *

(1) * * *

Chlortetracycline amount	Combination	Indications for use	Limitations	Sponsor
*	*	*	*	*
(xii) 10 mg/lb of body weight		* * *		
		4. Swine; for control of porcine proliferative enteropathies (ileitis) caused by *Lawsonia intracellularis* susceptible to chlortetracycline.	Feed for not more than 14 d.	046573
*	*	*	*	*

* * * * *

Dated: July 18, 2000.

Claire M. Lathers,

Director, Office of New Animal Drug Evaluation, Center for Veterinary Medicine.

[FR Doc. 00–18823 Filed 7–25–00; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Part 140

RIN 2125–AE76

Temporary Matching Fund Waiver

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Final rule; rescission of regulation.

SUMMARY: This document rescinds the regulation that prescribes procedures for administering section 1054 of the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA) providing for a temporary waiver of State matching fund requirements. Since the period of this special provision has expired, and all money has been repaid, the regulation is obsolete.

DATES: This rule is effective July 26, 2000.

FOR FURTHER INFORMATION CONTACT: Mr. Max Inman, Federal-aid Financial Management Division, (202) 366–2583 or Mr. Steve Rochlis, Office of the Chief Counsel, (202) 366–1395, Federal Highway Administration, 400 Seventh Street, SW., Room 4310, Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

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Background

Under the provisions of section 1054 of the ISTEA, Public Law 102–240, 105 Stat. 1914, at 2001 (23 U.S. Code. 120 note), a State could request an increased Federal share up to 100 percent for any qualifying title 23, U.S. Code, project beginning October 1, 1991, and ending September 30, 1993. The total amount of any such increase had to be repaid to the United States on or before March 30, 1994. If a State did not make the required repayment by March 30, 1994, the Secretary of Transportation could make deductions from funds apportioned to the States for fiscal years 1995 and 1996. Since the period of this special provision has expired, and all money has been repaid, it is no longer necessary to have this particular regulation.

Rulemaking Analyses and Notices

This final rule makes only minor technical corrections to our existing regulation. The rule replaces outdated statutory language due to the expiration of a special provision under ISTEA granting States temporary matching fund waiver and requiring repayment by March 30, 1994. Because the Congress did not enact a similar matching fund waiver in the Transportation Equity Act for the 21st Century (TEA–21), (Pub. L. 105–178, 112 Stat. 107 (1998) or any other statute, there is no need for the provision in the current regulations. Therefore, the FHWA finds good cause to rescind the rule without prior notice or opportunity for public comment [5 U.S.C. 553(b)]. The DOT's regulatory policies and procedures also authorize rescission of the rule without prior notice because it is anticipated that such action would not result in the receipt of useful information. The FHWA is making the rule effective upon publication in the **Federal Register** because it imposes no new burdens and merely rescinds an existing regulation that has become obsolete.

Executive Order 12866 (regulatory Planning and Review) and DOT Regulatory Policies and Procedures

The FHWA has considered the impact of this action and has determined that it is not a significant regulatory action within the meaning of Executive Order 12866 or a significant within the meaning of the Department of Transportation regulatory policies and procedures. Since this rulemaking action merely removes an obsolete regulation, it is anticipated that its economic impact is minimal; therefore, a full regulatory evaluation is not required.

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (5 U.S.C. 601–612), the FHWA has evaluated the effects of this action on small entities. Based on the evaluation, and since this rulemaking action merely removes an outdated regulation, the FHWA hereby certifies that this action will not have a significant economic impact on a

substantial number of small entities. In any event, States are not included in the definition of ''small entity'' set forth in 5 U.S.C. 601. Therefore, this action will not have a significant economic impact on a substantial number of small entities for purposes of the Regulatory Flexibility Act.

Unfunded Mandates Reform Act of 1995

This action does not impose a Federal mandate resulting in the expenditure by State, local, tribal governments, in the aggregate, or by the sector, of $100 million or more in any year. (2 U.S.C. 1531 *et seq.*)

Executive Order 12988 (Civil Justice Reform)

This action meets applicable standards in sections 3(a) and 3(b) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Executive Order 13045 (Protection of Children)

We have analyzed this action under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This action does not involve an economically significant rule and does not concern an environmental risk to health or safety that may disproportionately affect children.

Executive Order 12630 (Taking of Private Property)

This action will not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Executive Order 13132 (Federalism)

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 13132, dated August 4, 1999, and it has been determined that this action does not have a substantial direct effect or sufficient federalism implications on States that would limit policymaking discretion of the States. Nothing in this document directly preempts any State law or regulation.

Executive Order 12372 (Intergovernmental Review)

Catalog of Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation of Federal programs and activities apply to this program.

Paperwork Reduction Act

This action does not create a collection of information requirement for the purposes of the Paperwork Reduction Act of 1995, 44 U.S.C. 3501 *et seq.*

National Environmental Policy Act

The FHWA has analyzed this action for the purposes of the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 *et seq.*) and has determined that it would not have any effect on the quality of the environment. Therefore, an environmental impact statement is not required.

Regulatory Identification Number

A regulation identification number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN number contained in the heading of this document can be used to cross-reference this action with the Unified Agenda.

List of Subjects in 23 CFR Part 140

Accounting, Grant programs—transportation, Highways and roads.

Issued on: July 17, 2000.

Kenneth R. Wykle,

Federal Highway Administrator.

In consideration of the foregoing, the FHWA amends title 23, Code of Federal Regulations, part 140, as set forth below:

PART 140—REIMBURSEMENT

1. The authority citation for part 140 continues to read as follows:

Authority: 23 U.S.C. 101(e), 106, 109(e), 114(a), 120(g), 121, 122, 130, and 315; and 49 CFR 1.48(b).

Subpart C—[Removed and Reserved]

2. Remove and reserve subpart C of part 140.

[FR Doc. 00–18685 Filed 7–25–00; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Part 140

RIN 2125–AE74

Payroll and Related Expenses of Public Employees; General Administration and Other Overhead; and Cost Accumulation Centers and Distribution Methods

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Final rule; rescission of regulation.

SUMMARY: This document rescinds the regulation for payroll and related expenses of public employees; general administration and other overhead; and cost accumulation centers and distribution methods. This rescission stems from a provision in the Transportation Equity Act for the 21st Century (TEA–21) that allows for eligibility of administrative costs of a State department of transportation (State DOT). The provision permits State transportation departments to request Federal reimbursement for various indirect costs, such as administrative overhead. Previously, Federal reimbursement was only available for direct costs, such as project construction and engineering expenses. States may claim indirect costs in accordance with the provisions of Office of Management and Budget (OMB) Circular A–87.

DATES: This rule is effective July 26, 2000.

FOR FURTHER INFORMATION CONTACT: Mr. Max Inman, Federal-aid Financial Management Division, (202) 366–2853 or Mr. Steve Rochlis, Office of the Chief Counsel, (202) 366–1395, Federal Highway Administration, 400 Seventh Street SW., Room 4310, Washington, D.C. 20590. Office hours are from 7:45 a..m. to 4:45 p.m., e.t., Monday through Friday, except Federal holidays.

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Background

Section 1212(a) of the TEA–21, Public Law 105–178, 112 Stat. 107, at 193 (1998), amended 23 U.S. Code 302. Section 302 has long been interpreted to mean that a State could not claim Federal-aid highway funds for its costs associated with administering its highway department even though a State agency's indirect costs are generally allowable in accordance with directives issued by the OMB. This new provision in the TEA–21 clarifies that 23 U.S.C. 302 does not limit reimbursement of eligible indirect costs and thereby makes the Federal-aid highway program consistent with other federal programs under OMB Circular A–87, as revised May 4, 1995, and further amended on August 29, 1997. The change reduces the administrative burden caused by requiring States to develop separate accounting systems.

The OMB Circular A–87 provides principles for determining the allowable costs of programs administered by State and local governments under grants from, and contracts with, the Federal government. These principles are designed to provide the basis for a uniform determination of costs and generally to provide that federally assisted programs bear their fare share of costs.

Those States desiring to claim administrative overhead costs for the Federal-aid highway program may do so by developing an indirect cost rate proposal in accordance with the criteria provided in OMB Circular A–87, whereby the costs may be distributed to the various departments and programs in an equitable and consistent manner.

Rulemaking Analyses and Notices

This final rule makes technical changes to existing regulations mandated by law to provide greater uniformity of treatment of indirect costs as applied to the Federal-aid highway program and reduces the burden on State and local governments. This action eliminates outdated language by rescinding the regulation for payroll and related expenses of public employees, general administration and other overhead, and cost accumulation centers and distribution methods. Rescission of the regulation is more consistent with current statutory authority under the TEA–21 that allows for eligibility of various indirect costs, such as, administrative overhead costs of a State DOT. Therefore, the FHWA finds good cause to take this action without prior notice or opportunity for public comment [5 U.S.C. 553(b)]. The DOT's regulatory policies and procedures also authorize promulgation of the rule without prior notice because it is anticipated that such action would not result in the receipt of useful information. The FHWA is making the rule effective upon publication in the **Federal Register** because it imposes no new burdens and merely corrects or clarifies exiting regulations [5 U.S.C. 553(d)].

Executive Order 12866 (Regulatory Planning And Review) and DOT Regulatory Policies And Procedures

The FHWA has determined this action is not a significant regulatory action within the meaning of Executive Order 12866 or significant within the meaning of Department of Transportation regulatory policies and procedures. This rulemaking action makes only technical corrections to the current regulations by rescinding a rule to eliminate outdated language due to current statutory authority under the TEA–21. It is anticipated that the economic impact of this rulemaking will be minimal; therefore, a full regulatory evaluation is not required.

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act [5 U.S.C. 601–612], the FHWA has evaluated the effects of this action on small entities. Based on the evaluation and since this rulemaking action merely removes an outdated regulation, the FHWA hereby certifies that this action will not have a significant economic impact on a substantial number of small entities. Furthermore, States are not included in the definition of ''small entity'' as provided in 5 U.S.C. 601.

Executive Order 13132 (Federalism)

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 13132, dated August 4, 1999, and it has been determined that this action does not have substantial direct effect or sufficient federalism implications on States that would limit the policymaking discretion of the States. Nothing in this document directly preempts any State law or regulation.

Executive Order 12372 (Intergovernmental Review)

Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.

Unfunded Mandates Reform Act of 1995

This action does not impose a Federal mandate resulting in the expenditure by State, local, tribal governments, in the aggregate, or by the sector, of $100 million or more in any year. (2 U.S.C. 1531 *et seq.*)

Paperwork Reduction Act

This action does not contain a collection of information requirement for purposes of the Paperwork Reduction Act of 1995, 44 U.S.C. 3501 *et seq.*

Executive Order 12988 (Civil Justice Reform)

This action meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Executive Order 13045 (Protection of Children)

We have analyzed this action under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule, involved here is not economically significant and does not concern an environmental risk to health of safety that may disproportionately affect children.

Executive Order 12630 (Taking of Private Property)

This action will not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

National Environmental Policy Act

The FHWA has analyzed this action for the purpose of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) and has determined that this action would not have any effect on the quality of the environment. Therefore, an environmental impact statement is not required.

Regulation Identification Number

A regulation identification number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN number contained in the heading of this document can be used to cross-reference this action with the Unified Agenda.

List of Subjects in 23 CFR Part 140

Accounting, Grants programs—transportation, Highways and roads.

Issued on: July 18, 2000.

Kenneth R. Wykle,

Federal Highway Administrator.

In consideration of the foregoing, the FHWA amends title 23, Code of Federal Regulations, part 140, as set forth below:

PART 140—[AMENDED]

1. Revise the authority citation for part 140 to read as follows:

Authority: 23 U.S.C. 101(e), 106, 109(e), 114(a), 120(g), 121, 122, 130, and 315; and 49 CFR 1.48(b).

Subpart G—[Removed and Reserved]

2. Remove and reserve subpart G of part 140.

[FR Doc. 00–18776 Filed 7–25–00; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF JUSTICE

Parole Commission

28 CFR Part 2

Paroling, Recommitting, and Supervising Federal Prisoners: Prisoners Serving Sentences Under the District of Columbia Code

AGENCY: United States Parole Commission, Justice.

ACTION: Final rule.

SUMMARY: The U.S. Parole Commission is issuing final rules for parole-eligible D.C. Code prisoners and parolees pursuant to the National Capital Revitalization and Self-Government Improvement Act of 1997. The final rules incorporate the interim rules for D.C. Code prisoners that took effect on August 5, 1998, as well as new provisions pertaining to D.C. Code parolees. This will carry out the transfer to the U.S. Parole Commission of the authority currently exercised by the D.C. Board of Parole over the parole supervision and revocation process, which the Revitalization Act requires to take place by August 5, 2000. These final rules will constitute, in amended and supplemented form, the complete parole regulations of the District of Columbia.

DATES: These rules are effective August 5, 2000.

FOR FURTHER INFORMATION CONTACT: Pamela A. Posch, Office of General Counsel, U.S. Parole Commission, 5550 Friendship Blvd., Chevy Chase, Maryland 20815, telephone (301) 492–5959, for information concerning these rules. For inquiries about individual cases and all other matters, please contact (301) 492–5821.

SUPPLEMENTARY INFORMATION: Under section 11231 of the National Capital Revitalization and Self-Government Improvement Act of 1997, Public Law 105–33, the U.S. Parole Commission assumed the paroling jurisdiction of the D.C. Board of Parole on August 5, 1998. Interim rules, with a request for public comment, were published at 63 FR 39172 (July 21, 1998), and were amended at 63 FR 57060 (October 26, 1998) and 64 FR 5611 (February 4, 1999). They were republished in their entirety at 65 FR 19996 (April 13, 2000) with a continued request for public comment. The Commission has determined that it is now appropriate to publish these rules as final rules.

The Revitalization Act also requires that the remaining powers and duties of the D.C. Board of Parole (concerning the supervision and revocation of parolees) be transferred to the U.S. Parole Commission by August 5, 2000. In anticipation of this transfer of authority, the Commission published proposed rules, at 65 FR 20006 (April 13, 2000) to govern the Commission's exercise of that additional authority. After careful consideration of the public comment received, the Commission has determined that these proposed rules are also ready for publication as final rules effective August 5, 2000.

Accordingly, the Commission is republishing, as a final rule, the complete Subpart C that sets forth the parole release, supervision, and revocation policies and procedures of the U.S. Parole Commission with regard to District of Columbia Code prisoners and parolees. Pursuant to D.C. Code 24–1231(a)(1), these amended and supplemented rules will replace the rules of the D.C. Board of Parole originally published at 28 D.C.M.R. section 100 *et. seq.*, and will constitute the parole regulations of the District of Columbia as described in D.C. Code 24–1231(c).

Summary of the Public Comment

The Commission received public comment on both the interim and proposed rules that were published on April 13, 2000, at a public hearing held by the Commission on June 19, 2000, and through the submission of written statements and letters. The public comment is summarized below, together with the Commission's views on certain of the issues raised.

Law Student Representation

Much of the comment from law professors and law students concerned the proposed rule at § 2.103(e) that only licensed attorneys be permitted to engage in legal advocacy at parole revocation hearings. This comment made a strong case for the Commission permitting representation by law students in a clinical practice program. Such a provision therefore appears in the final rules.

Initial Parole Hearings

Other comment focused on the problem of delays in initial hearings and in processing grants of parole (which have frequently occurred for prisoners housed in District prisons). Complaints were made about delays to obtain more information and about delays in receiving notices of action. Although the Commission was commended for its rule at 28 CFR 2.71 requiring that initial hearings be held 180 days prior to parole eligibility, the point was made that this deadline is not being met in practice. The complaint was also made that Department of Corrections case managers are not always providing parole application forms, and that all eligible prisoners should be placed on the docket for a hearing, whether or not there has been a waiver of parole. (This proposal appears to reflect a high level of distrust of prison staff.) The Commission was advised by the D.C. Public Defender Service to assume ''full responsibility'' for docketing eligible prisoners wherever confined. However, the USPC staff does not have the ability to monitor the current location and parole eligibility status of all inmates throughout the D.C. system (including contract facilities), and it therefore does not have the ability to organize parole dockets at the D.C. institutions it visits. In all likelihood, most of these problems will be resolved as more and more D.C. inmates are transferred to federal facilities prior to the December 31, 2001, deadline set by the Revitalization Act. However, some delays are made necessary by the need for the Commission to acquire the basic information that is often missing from inmates' files (*e.g.*, presentence reports). Such delays are ordered only where a responsible release decision cannot be made on the basis of the file materials furnished to the Commission by District officials.

Another complaint was that no account is taken by the Commission of the ''dead time'' caused by a delayed initial parole hearing when a set-off is ordered. The Commission, however, has expressly provided for situations

involving a ''substantial delay in holding the initial hearing'' at § 2.75(b), so that such ''dead time'' is in fact compensated for by the Commission.

Much comment was made concerning the prohibition on representatives at parole hearings in D.C. institutions, and concern was expressed that this would extend to private prisons. Our experience thus far, however, is that federal contract facilities are following BOP rules in permitting all types of representatives at parole hearings. (In 1998, the Department of Corrections requested the Commission to keep in place the D.C. Board of Parole's prohibition on representatives at parole hearings held in District facilities.) Moreover, if the Public Defender Service has had to acquire additional attorneys just to cover revocation hearings, it is difficult to understand how legal counsel could be provided to prisoners at ordinary parole hearings on anything like a fair basis.

Rehearings

Other complaints concerned cases in which the D.C. Board of Parole had ordered a rehearing with specific program recommendations, and the USPC subsequently denied parole and ordered a further continuance notwithstanding the inmate's program achievements. However, when such cases have arisen, the prisoners involved are typically serious risk cases whose favorable prison records do not justify grants of parole at the set-off date ordered by the Board. Some commenters appear to believe that the D.C. Board of Parole granted parole more frequently than the Commission does, but no evidence of this was adduced.

Telephone Calls and FOIA Requests

One complaint was made that telephone calls to Commission analysts are not being given satisfactory responses, and that Freedom of Information Act (FOIA) requests are not being answered on time. The volume of public telephone calls received by the Commission (as to both parole-related and non-parole matters) has been extraordinary. The Commission is currently seeking an appropriate solution for this problem. As to the FOIA, there appears to be a misperception that the FOIA can be used as a mechanism to guarantee prehearing disclosure. The Commission's rules provide that the reason a particular prisoner is making a FOIA request does not give that prisoner priority over other FOIA requesters. 28 CFR 2.56(g). FOIA requests will therefore continue to be processed on a ''first come first served'' basis by the Commission's FOI unit.

Lack of Programs

Several complaints concerned the perceived unfairness of a guideline system that requires program participation, when D.C. inmates frequently do not have programs. However, at least one commenter understood that 28 CFR 2.80(d) already allows for this by permitting points to be deducted in the Commission's discretion even where ''* * * prison programs and work assignments are limited or unavailable.'' Under this rule, the Commission will deduct a point or points based on any reasonable indicant of the prisoner's cooperativeness and good behavior.

Appeal Rights

Unfairness was alleged in the absence of any right to appeal a parole decision, as appears in the rules for U.S. Code prisoners. It was alleged that the D.C. Board of Parole (at least in practice) permitted appeals. This is a doubtful proposition. The rules of the D.C. Board of Parole make no mention of appeals, and the Board's occasional practice with regard to reopening cases based upon post-decisional complaints can hardly be viewed as an institutionalized appeal system. At any rate, the USPC does not have the staff resources at the present time to process a full caseload of appeals from D.C. Code inmates along the same lines as appeals from federal inmates under 18 U.S.C. 4215. In compensation, the Commission will continue to require a concurrence of at least two Commissioners for all decisions to grant and deny parole. (Appeals in the federal parole system are normally from parole decisions made by a single Commissioner.)

Prehearing Disclosure

Inevitably, comment was directed to the lack of prehearing disclosure at D.C. facilities. However, prehearing disclosure requires the participation of case managers who are fully trained in federal procedures, which the Bureau of Prisons has but the Department of Corrections does not have. Hence, the Commission is not in a position to institute federal prehearing disclosure procedures in District facilities.

Medical and Geriatric Parole

The Commission was commended for its rules on medical and geriatric parole, as well as for its rule on minimum term reduction applications under D.C. Code § 24–201c.

Victim Participation

One complaint was that it is unfair to prisoners to allow the crime victim to appear at the parole hearing and give information, without the prisoner being able to confront the victim. The Public Defender Service also thinks that there is ''disparity'' in the rights given to victims to appear and oppose parole as compared with the rights given to friends and supporters of the prisoner. One commenter believes that victims should have told everything at the trial (which does not account for convictions resulting from plea bargains), and considers it unfair to let victims say anything at all. Nonetheless, District of Columbia law gives victims the right to participate in parole hearings, and the Commission has an obligation to follow D.C. law in this matter. If anything, the current opportunities for victim participation have redressed a situation in which crime victims were for too long ignored by the criminal justice system.

Five-Year Continuances

The same commenter also decried the possibility of a maximum five-year continuance (reserved for the most serious cases involving guideline departures). However, the D.C. Board of Parole occasionally ordered continuances even longer then five-years. In the Commission's practice, five-year continuances are limited to a small number of prisoners (under five percent) who have committed exceptionally cruel and violent crimes. Most continuances are for 36 months or less.

Alleged Discrimination

Other comments were received concerning the perceived discrimination of the federal system against D.C. inmates in general, with one commenter alleging that it looks like the ''truth in sentencing'' eighty-five percent rule is already in effect. Another commenter alleged that there is institutionalized discrimination in the federal system against D.C. Code inmates. With a current parole rate of 35 percent at initial hearings (reflecting the percentage of eligible prisoners with low grid point scores), discrimination is clearly not taking place. The Public Defender Service also complains that hearing examiners are required to withhold giving their recommended decisions to D.C. prisoners while giving them to U.S. prisoners. In the light of recent security issues at the Lorton Complex, the Commission has not considered it prudent to require the examiners to announce their decisions

in District facilities (which the D.C. Board of Parole did not do).

Warrants

As to warrants, one comment preferred a ''probable cause'' standard to the ''satisfactory evidence'' standard that appears in federal law and rules, and called for the adoption of specific criteria to govern the issuance of warrants. However, there is no legal or practical difference between the two standards. The ''satisfactory evidence'' standard requires that the Commission be presented with evidence (not just an allegation) which, if sustained, would make revocation of parole appropriate.

Moreover, the Commission has never thought it useful to adopt specific criteria for the issuance of warrants. As stated by the Supreme Court in *Morrissey* v. *Brewer*, 408 U.S. 471 (1972), a warrant may be withheld for a time despite violations, but may be issued when it becomes clear that the parolee ''can no longer be counted on to refrain from anti-social behavior.'' This is a sufficient standard for the exercise of the Commission's discretion. Objection was also made to the rule permitting execution of a warrant to be voided in favor of local prosecutions. Because that traditional practice often benefits the parolee by allowing him to deal with his criminal case first, the Commission cannot agree with this comment.

The Revocation Process

Finally, with respect to the Commission's revocation hearing procedures, strong opposition was made to the Commission's dual system of local versus institutional revocation hearings. (See 18 U.S.C. 4214.) Although this dual system was recognized as valid for federal parolees, it was perceived as unfair to D.C. Code parolees, who have traditionally had all revocation hearings held locally. In particular, the requirement that the parolee must request (and qualify for) a local revocation hearing was perceived as an unfair presumption against a local revocation hearing. The Public Defender Service also believes that the criteria for receiving a local revocation hearing are ''more stringent'' for D.C. Parolees. (They are, in fact, exactly the same as for federal parolees.)

These comments may also reflect some misunderstanding as to the Commission's ability to ensure that all arrested parolees can be jailed locally while awaiting their revocation hearings. Moreover, a parolee who has been convicted of the charged violations (or who has admitted the charged violations) is in a very different legal position from a parolee who is able to contest the charges against him, and thus has a real need for witnesses, cross-examination, and a hearing held locally. Only in the latter case does *Morrissey* v. *Brewer, supra,* require a ''local'' revocation hearing. For other cases, there is no prejudice in receiving an institutional revocation hearing because the fact that parole was violated is already established by the new conviction or admission.

The Public Defender Service also complained that the Commission's time deadlines are insufficient; preliminary interviews should be held within 5 days of arrest and final revocation hearings 60 days from the interview (as opposed to ''promptly'' and ''60 days from the probable cause determination''). The Commission's time deadlines are, however, the same as in federal law (18 U.S.C. 4214). Nonetheless, this comment had a good point that the proposed rules failed to set a deadline for the Commission's decision following the revocation hearing. That omission has been rectified.

The final revocation hearing rules have also been modified to permit parolees to have voluntary witnesses appear at institutional hearings. The rule, however, makes it clear that such parolees cannot expect the Commission to compel the appearance of desired witnesses if an institutional revocation hearing cannot be held locally. It is our expectation that, for the foreseeable future, both ''local revocation hearings'' (*i.e.*, fully contested *Morrissey* type hearings) and ''institutional revocation hearings (*i.e.*, where the parolee has admitted or been convicted of the charges) will be held locally in D.C. Department of Corrections facilities. Again, however, the Commission has no control over jail housing policies, and institutional revocation hearings may be held in facilities outside the District of Columbia without violating any fundamental right of the parolee.

Implementation

The regulations set forth below will be made effective as final rules on August 5, 2000, and will apply to all prisoners and parolees (including mandatory releasees) who are serving sentences under the District of Columbia Code for felony crimes committed prior to August 5, 2000. The Commission will continue to evaluate these rules (in particular, the rules establishing procedures for the parole revocation process), and will remain open to any suggestions for improvement from judges, practitioners, other agency personnel, and the public at large.

Good Cause Finding

The Commission is making these final rules effective less than 30 days from the date of this publication for good cause pursuant to 5 U.S.C. 553(d)(3). August 5, 2000 is the deadline established by the Revitalization Act for the Commission to assume full responsibility for all D.C. Code felony offenders under parole supervision. On that date, the D.C. Board of Parole will be abolished, so the Commission will have to take immediate responsibility for all pending matters, including parole revocation proceedings and requests from supervision officers for warrants and modifications of the conditions of parole. The Commission was not able to have final rules published earlier than today's date because of the many legal and operational issues that have required resolution during the transition process. Although the Court Services and Offender Supervision Agency (CSOSA), which will assume its duties as a new federal agency on August 5, 2000, has joined with the Commission in an intensive planning and training process, the problems presented by the District's current criminal justice system cannot be overstated. Finally, these final rules are published on the assumption that certification pursuant to D.C. Code 24–1232(h) will have occurred prior to August 5, 2000.

Regulatory Assessment Requirements

The U.S. Parole Commission has determined that these final rules do not constitute a significant rule within the meaning of Executive Order 12866. The final rules will not have a significant economic impact upon a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 605(b), and are deemed by the Commission to be rules of agency practice that do not substantially affect the rights or obligations of non-agency parties pursuant to Section 804(3)(C) of the Congressional Review Act.

List of Subjects in 28 CFR Part 2

Administrative practice and procedure, Prisoners, Probation and parole.

The Final Rules

Accordingly the U.S. Parole Commission is adopting the following amendment to 28 CFR part 2.

PART 2—[AMENDED]

1. The authority citation for 28 CFR part 2 continues to read as follows:

Authority: 18 U.S.C. 4203(a)(1) and 4204(a)(6).

2. Subpart C is revised to read as follows:

Subpart C—District of Columbia Code Prisoners and Parolees

Sec.

Subpart C—District of Columbia Code: Prisoners and Parolees

§ 2.70 Authority and functions of the U.S. Parole Commission with respect to District of Columbia Code offenders.

(a) The U.S. Parole Commission shall exercise authority over District of Columbia Code offenders pursuant to section 11231 of the National Capital Revitalization and Self-Government Improvement Act of 1997, Public Law 105–33, 111 Stat. 712, and D.C. Code 24–209. The rules in this subpart shall govern the operation of the U.S. Parole Commission with respect to D.C. Code offenders and shall constitute the parole rules of the District of Columbia, as amended and supplemented pursuant to section 11231(a)(1) of the Act.

(b) The Commission shall have sole authority to grant parole, and to establish the conditions of release, for all District of Columbia Code prisoners who are serving sentences for felony offenses, and who are eligible for parole by statute, including offenders who have been returned to prison upon the revocation of parole or mandatory release. (D.C. Code 24–208). The above authority shall include youth offenders who are committed to prison for treatment and rehabilitation based on felony convictions under the D.C. Code. (D.C. Code 24–804(a).)

(c) The Commission shall have authority to recommend to the Superior Court of the District of Columbia a reduction in the minimum sentence of a District of Columbia Code prisoner, if the Commission deems such recommendation to be appropriate. (D.C. Code 24–201(c).)

(d) The Commission shall have authority to grant parole to a prisoner who is found to be geriatric, permanently incapacitated, or terminally ill, notwithstanding the minimum term imposed by the sentencing court. (D.C. Code 24–263 through 267.)

(e) The Commission shall have authority over all District of Columbia Code felony offenders who have been released to parole or mandatory release supervision, including the authority to return such offenders to prison upon an order of revocation. (D.C. Code 24–206.)

§ 2.71 Application for parole.

(a) A prisoner (including a committed youth offender) desiring to apply for parole shall execute an application form as prescribed by the Commission. Such forms shall be available at each institution and shall be provided to a prisoner who is eligible for parole consideration. The Commission may then conduct an initial hearing or grant an effective date of parole on the record. A prisoner who receives an initial hearing need not apply for subsequent hearings.

(b) To the extent practicable, the initial hearing for an eligible adult prisoner who has applied for parole shall be held at least 180 days prior to such prisoner's date of eligibility for parole. The initial hearing for a committed youth offender shall be scheduled during the first 120 days after admission to the institution that is responsible for developing his rehabilitative program.

(c) A prisoner may knowingly and intelligently waive any parole consideration on a form provided for that purpose. A prisoner who declines either to apply for or waive parole consideration shall be deemed to have waived parole consideration.

(d) A prisoner who waives parole consideration may later apply for parole and be heard during the next visit of the Commission to the institution at which the prisoner is confined, provided that the prisoner has applied for parole at least 60 days prior to the first day of the month in which such visit of the Commission occurs. In no event, however, shall such prisoner be heard at an earlier date than that set forth in paragraph (b) of this section.

§ 2.72 Hearing procedure.

(a) Each eligible prisoner for whom an initial hearing has been scheduled shall appear in person before an examiner of the Commission. The examiner shall review with the prisoner the guidelines at § 2.80, and shall discuss with the prisoner such information as the examiner deems relevant, including the prisoner's offense behavior, criminal history, institutional record, health status, release plans, and community support. If the examiner determines that the available file material is not adequate for this purpose the examiner may order the hearing to be postponed to the next docket so that the missing information can be requested.

(b) Parole hearings may be held in District of Columbia facilities (including District of Columbia contract facilities) and federal facilities (including federal contract facilities).

(c) A prisoner appearing for a parole hearing in a federal facility (including federal contract facilities) may have a representative pursuant to § 2.13(b). A prisoner appearing for a parole hearing in any other facility shall not be accompanied by counsel or any other person (except a staff member of the facility), except in such facilities as the Commission may designate as suitable for the appearance of representatives.

(d) Prehearing disclosure of file material pursuant to § 2.55 will be available to prisoners and their representatives only in the case of prisoners confined in federal facilities (including federal contract facilities).

(e) A victim of a crime, or a representative of the immediate family of a victim if the victim has died, shall have the right:

(1) To be present at the parole hearings of each offender who committed the crime, and

(2) To testify and/or offer a written or recorded statement as to whether or not parole should be granted, including information and reasons in support of such statement. A written statement may be submitted at the hearing or provided separately. The prisoner may be excluded from the hearing room during the appearance of a victim or

representative who gives testimony. In lieu of appearing at a parole hearing, a victim or representative may request permission to appear before an examiner (or other staff member), who shall record and summarize the victim's or representative's testimony. Whenever new and significant information is provided under this rule, the hearing examiner will summarize the information at the parole hearing and will give the prisoner an opportunity to respond. Such summary shall be consistent with a reasonable request for confidentiality by the victim or representative.

(f) Attorneys, family members, relatives, friends of the prisoner, or other interested persons desiring to submit information pertinent to any prisoner, may do so at any time, but such information must be received by the Commission at least 30 days prior to a scheduled hearing in order to be considered at that hearing. Such persons may also request permission to appear at the offices of the Commission to speak to a Commission staff member, provided such request is received at least 30 days prior to the scheduled hearing. The purpose of this office visit will be to supplement the Commission's record with pertinent factual information concerning the prisoner, which shall be placed in the record for consideration at the hearing. An office visit at a time other than set forth in this paragraph may be authorized only if the Commission finds good cause based upon a written request setting forth the nature of the information to be discussed. See § 2.22.

(g) A full and complete recording of every parole hearing shall be retained by the Commission. Upon a request pursuant to § 2.56, the Commission shall make available to any eligible prisoner such record as the Commission has retained of the hearing.

(h) Because parole decisions must be reached through a record-based hearing and voting process, no contacts shall be permitted between any person attempting to influence the Commission's decision-making process, and the examiners and Commissioners of the Commission, except as expressly provided in this subpart.

§ 2.73 Parole suitability criteria.

(a) In accordance with D.C. Code 24–204(a), the Commission shall be authorized to release a prisoner on parole in its discretion after the prisoner has served the minimum term of the sentence imposed, if the following criteria are met:

(1) The prisoner has substantially observed the rules of the institution;

(2) There is a reasonable probability that the prisoner will live and remain at liberty without violating the law; and

(3) In the opinion of the Commission, the prisoner's release is not incompatible with the welfare of society.

(b) It is the policy of the Commission with respect to District of Columbia Code offenders that the minimum term imposed by the sentencing court presumptively satisfies the need for punishment for the crime of which the prisoner has been convicted, and that the responsibility of the Commission is to account for the degree and the seriousness of the risk that the release of the prisoner would entail. This responsibility is carried out by reference to the Salient Factor Score and the Point Assignment Table at § 2.80. However, there may be exceptional cases in which the gravity of the offense is sufficient to warrant an upward departure from § 2.80 and denial of parole.

§ 2.74 Decision of the Commission.

(a) Following each initial or subsequent hearing, the Commission shall render a decision granting or denying parole, and shall provide the prisoner with a notice of action that includes an explanation of the reasons for the decision. The decision shall ordinarily be issued within 21 days of the hearing, excluding weekends and holidays.

(b) Whenever a decision is rendered within the applicable guideline established in this subpart, it will be deemed a sufficient explanation of the Commission's decision for the notice of action to set forth how the guideline was calculated. If the decision is a departure from the guidelines, the notice of action shall include the reasons for such departure.

(c) Relevant issues of fact shall be resolved by the Commission in accordance with § 2.19(c). All final parole decisions (granting, denying, or revoking parole) shall be based on the concurrence of two Commissioner votes, except that three Commissioner votes shall be required if the decision differs from the decision recommended by the examiner panel by more than six months. A final decision releasing a parolee from active supervision shall also be based on the concurrence of two Commissioner votes. All other decisions may be based on a single Commissioner vote, except as expressly provided in these rules.

§ 2.75 Reconsideration proceedings.

(a) If the Commission denies parole, it shall establish an appropriate reconsideration date in accordance with the provisions of § 2.80. The prisoner shall be given a rehearing during the month specified by the Commission, or on the docket of hearings immediately preceding that month if no docket of hearings is scheduled for the month specified. If the prisoner's mandatory release date will occur before the reconsideration date deemed appropriate by the Commission pursuant to § 2.80, the Commission may order that the prisoner be released by the expiration of his sentence less good time (''continue to expiration'').

(b) The first reconsideration date shall be calculated from the prisoner's eligibility date, except that in the case of a youth offender or any prisoner who has waived the initial hearing, the first reconsideration date shall be calculated from the date the initial hearing is held. In all cases, any subsequent reconsideration date shall be calculated from the date of the last hearing. In the case of a waiver or substantial delay in holding the initial hearing, the Commission may conduct a combined initial hearing and such rehearings *nunc pro tunc* as would otherwise have been held during the delay.

(c) Notwithstanding the provisions of paragraph (a) of this section, the Commission shall not set a reconsideration date in excess of five years from the date of the prisoner's last hearing, nor shall the Commission continue a prisoner to the expiration of his or her sentence if more than five years remains from the date of the last hearing until the prisoner's scheduled mandatory release. The scheduling of a reconsideration date does not imply that parole will be granted at such hearing.

(d) Prior to the parole reconsideration date, the Commission shall review the prisoner's record, including an institutional progress report which shall be submitted 60 days prior to the hearing. Based on its review of the record, the Commission may grant an effective date of parole without conducting the scheduled in-person hearing.

(e) Notwithstanding a previously established reconsideration date, the Commission may also reopen any case for a special reconsideration hearing, as provided in § 2.28, upon the receipt of new and significant information concerning the prisoner.

§ 2.76 Reduction in minimum sentence.

(a) A prisoner who has served three or more years of the minimum term of his or her sentence may request the Commission to file an application with the sentencing court for a reduction in the minimum term pursuant to D.C. Code 24–201c. The prisoner's request to

the Commission shall be in writing and shall state the reasons that the prisoner believes such request should be granted. The Commission shall require the submission of a special progress report before approving such a request.

(b) Approval of a prisoner's request under this section shall require the concurrence of a majority of the Commissioners holding office.

(c) Pursuant to D.C. Code 24–201c, the Commission may file an application to the sentencing court for a reduction of a prisoner's minimum term if the Commission finds that:

(1) The prisoner has completed three years of the minimum term imposed by the court;

(2) The prisoner has shown, by report of the responsible prison authorities, an outstanding response to the rehabilitative program(s) of the institution;

(3) The prisoner has fully observed the rules of each institution in which the prisoner has been confined;

(4) The prisoner appears to be an acceptable risk for parole based on both the prisoner's pre- and post-incarceration record; and

(5) Service of the minimum term imposed by the court does not appear necessary to achieve appropriate punishment and deterrence.

(d) If the Commission approves a prisoner's request under this section, an application for a reduction in the prisoner's minimum term shall be forwarded to the U.S. Attorney for the District of Columbia for filing with the sentencing court. If the U.S. Attorney objects to the Commission's recommendation, the U.S. Attorney shall provide the government's objections in writing for consideration by the Commission. If, after consideration of the material submitted, the Commission declines to reconsider its previous decision, the U.S. Attorney shall file the application with the sentencing court.

(e) If a prisoner's request under this section is denied by the Commission, there shall be a waiting period of two years before the Commission will again consider the prisoner's request, absent exceptional circumstances.

§ 2.77 Medical parole.

(a) Upon receipt of a report from the institution in which the prisoner is confined that the prisoner is terminally ill, or is permanently and irreversibly incapacitated by a physical or medical condition that is not terminal, the Commission shall determine whether or not to release the prisoner on medical parole. Release on medical parole may be ordered by the Commission at any time, whether or not the prisoner has completed his or her minimum sentence. Consideration for medical parole shall be in addition to any other parole for which a prisoner may be eligible.

(b) A prisoner may be granted a medical parole on the basis of terminal illness if:

(1) The institution's medical staff has provided the Commission with a reasonable medical judgment that the prisoner is within six months of death due to an incurable illness or disease; and

(2) The Commission finds that:

(i) The prisoner will not be a danger to himself or others; and

(ii) Release on parole will not be incompatible with the welfare of society.

(c) A prisoner may be granted a medical parole on the basis of permanent and irreversible incapacitation only if the Commission finds that:

(1) The prisoner will not be a danger to himself or others because his condition renders him incapable of continued criminal activity; and

(2) Release on parole will not be incompatible with the welfare of society.

(d) The seriousness of the prisoner's crime shall be considered in determining whether or not a medical parole should be granted prior to completion of the prisoner's minimum sentence.

(e) A prisoner, or the prisoner's representative, may apply for a medical parole by submitting an application to the institution case management staff, who shall forward the application, accompanied by a medical report and any recommendations, within 15 days. The Commission shall render a decision within 15 days of receiving the application and report.

(f) A prisoner, the prisoner's representative, or the institution may request the Commission to reconsider its decision on the basis of changed circumstances.

(g) Notwithstanding any other provision of this section :

(1) A prisoner who has been convicted of first degree murder or who has been sentenced for a crime committed while armed under D.C. Code 22–2903, 22–3202, or 22–3204(b), shall not be eligible for medical parole (D.C. Code 24–267); and

(2) A prisoner shall not be eligible for medical parole on the basis of a physical or medical condition that existed at the time the prisoner was sentenced (D.C. Code 24–262).

§ 2.78 Geriatric parole.

(a) Upon receipt of a report from the institution in which the prisoner is confined that a prisoner who is at least 65 years of age has a chronic infirmity, illness, or disease related to aging, the Commission shall determine whether or not to release the prisoner on geriatric parole. Release on geriatric parole may be ordered by the Commission at any time, whether or not the prisoner has completed his or her minimum sentence. Consideration for geriatric parole shall be in addition to any other parole for which a prisoner may be eligible.

(b) A prisoner may be granted a geriatric parole if the Commission finds that:

(1) There is a low risk that the prisoner will commit new crimes; and

(2) The prisoner's release would not be incompatible with the welfare of society.

(c) The seriousness of the prisoner's crime, and the age at which it was committed, shall be considered in determining whether or not a geriatric parole should be granted prior to completion of the prisoner's minimum sentence.

(d) A prisoner, or a prisoner's representative, may apply for a geriatric parole by submitting an application to the institution case management staff, who shall forward the application, accompanied by a medical report and any recommendations, within 30 days. The Commission shall render a decision within 30 days of receiving the application and report.

(e) In determining whether or not to grant a geriatric parole, the Commission shall consider the following factors (D.C. Code 24–265(c)(1)–(7)):

(1) Age of the prisoner;

(2) Severity of illness, disease, or infirmities;

(3) Comprehensive health evaluation;

(4) Institutional behavior;

(5) Level of risk for violence;

(6) Criminal history; and

(7) Alternatives to maintaining geriatric long-term prisoners in traditional prison settings.

(f) A prisoner, the prisoner's representative, or the institution, may request the Commission to reconsider its decision on the basis of changed circumstances.

(g) Notwithstanding any other provision of this section:

(1) A prisoner who has been convicted of first degree murder or who has been sentenced for a crime committed while armed under D.C. Code 22–2903, 22–3202, or 22–3204(b), shall not be eligible for geriatric parole (D.C. Code 24–267); and (2) A prisoner

shall not be eligible for geriatric parole on the basis of a physical or medical condition that existed at the time the prisoner was sentenced (D.C. Code 24–262).

§ 2.79 Good time forfeiture.

Although a forfeiture of good time will not bar a prisoner from receiving a parole hearing, D.C. Code 24–204 permits the Commission to parole only those prisoners who have substantially observed the rules of the institution. Consequently, the Commission will consider a grant of parole for a prisoner with forfeited good time only after a thorough review of the circumstances underlying the disciplinary infraction(s). The Commission must be satisfied that the prisoner has served a period of imprisonment sufficient to outweigh the seriousness of the prisoner's misconduct.

§ 2.80 Guidelines for D.C. Code offenders.

(a) Introduction. In determining whether an eligible prisoner should be paroled, the Commission shall apply the guidelines set forth in this section. The guidelines assign numerical values to the pre- and post-incarceration factors described in the Point Assignment Table set forth in paragraph (f) of this section. Decisions outside the guidelines may be made, where warranted, pursuant to paragraph (m) of this section.

(b) Salient factor score and criminal record. The prisoner's Salient Factor Score shall be determined by reference to the Salient Factor Scoring Manual in § 2.20. The Salient Factor Score is used to assist the Commission in assessing the probability that an offender will live and remain at liberty without violating the law. The prisoner's record of criminal conduct (including the nature and circumstances of the current offense) shall be used to assist the Commission in determining the probable seriousness of the recidivism that is predicted by the Salient Factor Score.

(c) Disciplinary infractions. The Commission shall assess whether the prisoner has been found guilty of committing disciplinary infractions while under confinement for the current offense. The Commission shall refer to the offense classification tables of the D.C. Department of Corrections or the Bureau of Prisons, as applicable, in determining whether the prisoner's disciplinary record should be counted on the point score. A single Class I or Code 100 offense, or two or more Class II or Code 200 offenses, shall be counted as negative institutional behavior at an initial hearing or any rehearing. A persistent record of lesser offenses may also be counted as negative institutional behavior at an initial hearing or a rehearing. At initial hearings, an infraction free period of at least three years preceding the date of the hearing may be considered by the Commission as sufficient to exclude from consideration a previous record of Class I (or Code 100) or Class II (or Code 200) offenses, provided that such offenses would result in not more than one point added to the prisoner's score.

(d) Program achievement. The Commission shall assess whether the prisoner has demonstrated ordinary or superior achievement in the area of prison programs, industries, or work assignments while under confinement for the current offense. Where prison programs and work assignments are limited or unavailable, the Commission may exercise discretion based on the prisoner's record of behavior. Points may be deducted for program achievement regardless of whether points have been added for negative institutional behavior during the same period.

(e) Implementation. These guidelines shall be applied to all prisoners who are given initial parole hearings on or after August 5, 1998. For prisoners whose initial hearings were held prior to August 5, 1998, the Commission shall render its decisions by reference to the guidelines applied by the D.C. Board of Parole. However, when a decision outside such guidelines has been made by the Board, or is ordered by the Commission, the Commission may determine the appropriateness and extent of the departure by comparison with the guidelines in this section. The Commission may also correct any error in the calculation of the D.C. Board's guidelines.

(f) Point Assignment Table. Add the applicable points from Categories I–III to determine the base point score. Then add or subtract the points from Categories IV and V to determine the total point score.

POINT ASSIGNMENT TABLE

	Salient factor score
Category I: Risk of Recidivism	
10–8 (Very Good Risk)	+0
7–6 (Good Risk)	+1
5–4 (Fair Risk)	+2
3–0 (Poor Risk)	+3
Category II: Current or Prior Violence (Type of Risk)	
Note: Use the highest applicable subcategory. If no subcategory is applicable, score=0.	
A. Violence in current offense, and any felony violence in two or more prior offenses	+4
B. Violence in current offense, and any felony violence in one prior offense	+3
C. Violence in current offense	+2
D. No violence in current offense and any felony violence in two or more prior offenses	+2
E. Possession of firearm in current offense if current offense is not scored as a crime of violence	+2
F. No violence in current offense and any felony violence in one prior offense	+1
Category III: Death of Victim or High Level Violence	
Note: Use highest applicable subcategory. If no subcategory is applicable, score=0.	
A current offense that involved high level violence must be scored under both Category II (A, B, or C) and under Category III.	
A. Current offense was high level or other violence with death of victim resulting	+3
B. Current offense involved attempted murder, conspiracy to murder, solicitation to murder, or any willful violence in which the victim survived despite death having been the most probable result at the time the offense was committed	+2

POINT ASSIGNMENT TABLE—Continued

	Salient factor score
C. Current offense involved high level violence (other than the behaviors described above)	+1
Base Point Score (Total of Categories I–III).	
Category IV: Negative Institutional Behavior	
Note: Use the highest applicable subcategory. If no subcategory is applicable, score=0.	
A. Aggravated negative institutional behavior involving:	
(1) Assault upon a correctional staff member, with bodily harm inflicted or threatened,	
(2) Possession of a deadly weapon,	
(3) Setting a fire so as to risk human life,	
(4) Introduction of drugs for purposes of distribution, or	
(5) Participating in a violent demonstration or riot	+2
B. Ordinary negative institutional behavior	+1
Category V: Program Achievement	
Note: Use the highest applicable subcategory. If no subcategory is applicable, score=0.	
A. No program achievement	0
B. Ordinary program achievement	−1
C. Superior program achievement	−2
Total Point Score (Total of Categories I–V).	

(g) *Definitions and instructions for application of point assignment table.*

(1) Salient factor score means the salient factor score set forth at § 2.20.

(2) High level violence in Category III means any of the following offenses

(i) Murder;

(ii) Voluntary manslaughter;

(iii) Arson of a building in which a person other than the offender was present or likely to be present at the time of the offense;

(iv) Forcible rape or forcible sodomy (first degree sexual abuse);

(v) Kidnapping, hostage taking, or any armed abduction of a victim during a carjacking or other offense;

(vi) Burglary of a residence while armed with any weapon if a victim was in the residence during the offense;

(vii) Obstruction of justice through violence or threats of violence;

(viii) Any offense involving sexual abuse of a person less than sixteen years of age;

(ix) Mayhem, malicious disfigurement, or any offense defined as other violence in paragraph (g)(4) of this section that results in serious bodily injury as defined in paragraph (g)(3) of this section;

(x) Any offense defined as other violence in paragraph (g)(4) of this section which the offender intentionally discharged a firearm;

(3) Serious bodily injury means bodily injury that involves a substantial risk of death, unconsciousness, extreme physical pain, protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ, or mental faculty.

(4) Other violence means any of the following felony offenses that does not qualify as high level violence—

(i) Robbery;

(ii) Residential burglary;

(iii) Felony assault;

(iv) Felony offenses involving a threat, or risk, of bodily harm;

(v) Felony offenses involving sexual abuse or sexual contact;

(vi) Involuntary manslaughter (excluding negligent homicide).

(5) Attempts, conspiracies, and solicitations shall be scored by reference to the substantive offense that was the object of the attempt, conspiracy, or solicitation; except that Category IIIA shall apply only if death actually resulted.

(6) Current offense means any criminal behavior that is either:

(i) Reflected in the offense of conviction, or

(ii) Is not reflected in the offense of conviction but is found by the Commission to be related to the offense of conviction (*i.e.,* part of the same course of conduct as the offense of conviction). In probation violation cases, the current offense includes both the original offense and the violation offense, except that the original offense shall be scored as a prior conviction (with a prior commitment) rather than as part of the current offense, if the prisoner served more than six months in prison for the original offense before his probation commenced.

(7) Category IIE applies whenever a firearm is possessed by the offender during, or is used by the offender to commit, any offense that is not scored under Category II(A–D). Category IIE also applies when the current offense is felony unlawful possession of a firearm and there is no other current offense. Possession for purposes of Category IIE includes constructive possession.

(8) Category IIIA applies if the death of a victim is:

(i) Caused by the offender, or

(ii) Caused by an accomplice and the killing was planned or approved by the offender in furtherance of a joint criminal venture.

(9) In some cases, negative institutional behavior that involves violence will result in a higher score if scored as an additional current offense under Categories II and/or III, than if scored under Category IVA. In such cases, the prisoner's point score is recalculated to reflect the conduct as an additional current offense under Categories II and/or III, rather than as a disciplinary infraction under Category IVA. For example, the attempted murder of another inmate will result in a higher score when treated as an additional current offense under Categories II and III, if the offense of conviction was scored under Category IIC only as violence in current offense. If negative institutional behavior is treated as an additional current offense, points may nonetheless be assessed under Category IVA or B for other disciplinary infractions.

(10) Superior Program Achievement means program achievement that is beyond the level that the prisoner might ordinarily be expected to accomplish.

(h) Guidelines for Decisions at Initial Hearing—Adult Offenders. In considering whether to parole an adult offender at an initial hearing, the

Commission shall determine the offender's total point score and then consult the following guidelines for the appropriate action:

Total Points Guideline Recommendation

(1) IF POINTS =0: Parole at initial hearing with low level of supervision indicated.

(2) IF POINTS =1: Parole at initial hearing with high level of supervision indicated.

(3) IF POINTS =2: Parole at initial hearing with highest level of supervision indicated.

(4) IF POINTS =3+: Deny parole at initial hearing and schedule rehearing in accordance with § 2.75(c) and the time ranges set forth in paragraph (j) of this section.

(i) Guidelines for Decisions at Initial Hearing—Youth Offenders. In considering whether to parole a youth offender at an initial hearing, the Commission shall determine the youth offender's total point score and then consult the following guidelines for the appropriate action:

Total points	Guideline recommendation
(1) If Points=0	Parole at initial hearing with low level of supervision indicated.
(2) If Points=1	Parole at initial hearing with high level of supervision indicated.
(3) If Points=2	Parole at initial hearing with highest level of supervision indicated.
(4) If Points=3+	Deny parole at initial hearing and schedule rehearing in accordance with § 2.75(c) and the time ranges set forth in paragraph (j) of this section.

(i) Guidelines for Decisions at Initial Hearing—Youth Offenders. In considering whether to parole a youth offender at an intial hearing, the Commission shall determine the youth offender's total point score and then consult the following guidelines for the approprate action.

Total points	Guideline recommendation
(1) If Points=0	Parole at initial hearing with conditions established to address treatment needs.
(2) If Points=1+	Deny parole at initial hearing and schedule a rehearing based on estimated time to achieve program objectives or by reference to the time ranges in paragraph (j) of this section, whichever is less.

(j) Guidelines for Time to Rehearing—Adult Offenders. (1) If parole is denied or rescinded, the time to the subsequent hearing for an adult offender shall be determined by the following guidelines:

Base point score (categories I through III)	Months to rehearing
0–4	12–18
5	18–24
6	18–24
7	18–24
8	18–24
9	22–28
10	26–32

(2) The time to a rehearing shall be determined by the prisoner's base point score, and not by the total point score at the current hearing, which indicates only whether parole should be granted or denied.

Exception: In the case of institutional misconduct deemed insufficiently serious to warrant the addition of one or more points for negative institutional behavior, the Commission may nonetheless deny or rescind parole and render a decision based on the guideline ranges at § 2.36.

(3) At any initial hearing or rehearing, if the prisoner's total point score is 4 or less, the Commission may order both a rehearing date and a presumptive parole date that is not more than 9 months from the rehearing date. Such presumptive date may be converted to a parole effective date following the rehearing, or the case may be reopened based on new favorable information and a parole effective date granted on the record.

(k) *Guidelines for Decisions at Subsequent Hearing*—Adult Offenders. In determining whether to parole an adult offender at a rehearing or rescission hearing, the Commission shall take the total point score from the initial hearing or last rehearing, as the case may be, and adjust that score according to the institutional record of the candidate since the last hearing. The following guidelines are applicable:

Total points	Guideline recommendation
If Points = 0–3	Parole with highest level of supervision indicated.
If Points = 4+	Deny parole at rehearing and schedule a further rehearing in accordance with § 2.75(c) and the time ranges set forth in paragraph (j) of this section.

(l) *Guidelines for Decisions at Subsequent Hearing—Youth Offenders.* (1) In determining whether to parole a youth offender appearing at a rehearing or rescission hearing, the Commission shall take the total point score from the initial hearing or last rehearing, as the case may be, and adjust that score according to the institutional record of the candidate since the last hearing. The following guidelines are applicable:

Total points	Guideline recommendation
If Points = 0–3	Parole with highest level of supervision indicated.
If Points = 4+	Deny parole and schedule a rehearing based on estimated time to achieve program objectives or by reference to the time ranges in paragraph (j) of this section, whichever is less.

(2) Prison officials may in any case recommend an earlier rehearing date than ordered by the Commission if the Commission's program objectives have been met.

(m) Decisions Outside the Guidelines—All Offenders. (1) The Commission may, in unusual circumstances, waive the Salient Factor Score and the pre- and post-incarceration factors set forth in this section to grant or deny parole to a prisoner notwithstanding the guidelines, or to schedule a reconsideration hearing at a time different from that indicated in paragraph (j) of this section. Unusual circumstances are case-specific factors that are not fully taken into account in the guidelines, and that are relevant to the grant or denial of parole. In such cases, the Commission shall specify in the notice of action the specific factors that it relied on in departing from the applicable guideline or guideline range.

(2) If the prisoner is deemed to be a poorer or more serious risk than the guidelines indicate, the Commission shall determine what Base Point Score would more appropriately fit the prisoner's case, and shall render its initial and rehearing decisions as if the prisoner had that higher Base Point Score. If possible, the factors justifying such a departure shall be fully accounted for in the initial continuance, so that the guidelines can be followed at subsequent hearings. In some cases, however, an extreme level of risk presented by the prisoner may make it inappropriate for the Commission to contemplate a parole at any hearing without a significant change in the prisoner's circumstances.

(3) Factors that may warrant a decision above the guidelines include, but are not limited to, the following:

(i) *Poorer Parole Risk Than Indicated By Salient Factor Score.* The offender is a poorer parole risk than indicated by the salient factor score because of—

(A) Unusually persistent failure under supervision (pretrial release, probation, or parole);

(B) Unusually persistent history of criminally related substance (drug or alcohol) abuse and resistance to treatment efforts; or

(C) Unusually extensive prior record (sufficient to make the offender a poorer risk than the ''poor'' prognosis category).

(ii) *More Serious Parole Risk.* The offender is a more serious parole risk than indicated by the total point score because of—

(A) Prior record of violence more extensive or serious than that taken into account in the guidelines;

(B) Current offense demonstrates extraordinary criminal sophistication, criminal professionalism in the employment of violence or threats of violence, or leadership role in instigating others to commit a serious offense;

(C) Unusual cruelty to the victim (beyond that accounted for by scoring the offense as high level violence), or predation upon extremely vulnerable victim;

(D) Unusual propensity to inflict unprovoked and potentially homicidal violence, as demonstrated by the circumstances of the current offense; or

(E) Additional serious offense(s) committed after (or while on bond or fugitive status from) current offense that show unusual capacity for sustained, repeated violent criminal activity.

(4) Factors that may warrant a decision below the guidelines include, but are not limited to, the following:

(i) *Better Parole Risk Than Indicated by Salient Factor Score.* The offender is a better parole risk than indicated by the salient factor score because of (applicable only to offenders who are not already in the very good risk category)—

(A) A prior criminal record resulting exclusively from minor offenses;

(B) A substantial crime-free period in the community for which credit is not already given on the Salient Factor Score;

(C) A change in the availability of community resources leading to a better parole prognosis;

(ii) *Other Factors:*

(A) Unusually lengthy period of incarceration on the minimum sentence (in relation to the seriousness of the offense and prior record) that warrants an initial parole determination as if the offender were being considered at a rehearing;

(B) Substantial period in custody on other sentence(s) sufficient to warrant a finding in paragraph (m)(4) of this section; or

(C) Clearly exceptional program achievement.

§ 2.81 Reparole decisions.

(a) If the prisoner is not serving a new, parolable D.C. Code sentence, the Commission's decision to grant or deny reparole on the parole violation term shall be made by reference to the reparole guidelines at § 2.21. The Commission shall establish a presumptive or effective release date pursuant to § 2.12(b), and conduct interim hearings pursuant to § 2.14.

(b) If the prisoner is eligible for parole on a new D.C. Code felony sentence that has been aggregated with the prisoner's parole violation term, the Commission shall make a decision to grant or deny parole on the basis of the aggregate sentence, and in accordance with the guidelines at § 2.80.

(c) If the prisoner is eligible for parole on a new D.C. Code felony sentence but the prisoner's parole violation term has not commenced (*i.e.,* the warrant has not been executed), the Commission shall make a single parole/reparole decision by applying the guidelines at § 2.80. The Commission shall establish an appropriate date for the execution of the outstanding warrant in order for the guidelines at § 2.80 to be satisfied. In cases where the execution of the warrant will not result in the aggregation of the new sentence and the parole violation term, the Commission shall make parole and reparole decisions that are consistent with the guidelines at § 2.80.

(d) All reparole hearings shall be conducted according to the procedures set forth in § 2.72, and may be combined with the holding of a revocation hearing if the prisoner's parole has not previously been revoked.

§ 2.82 Effective date of parole.

(a) A parole release date may be granted up to nine months from the date of the hearing in order to permit the prisoner's placement in a halfway house or to allow for release planning. Otherwise, a grant of parole shall ordinarily be effective not more than six months from the date of the hearing.

(b) Except in the case of a medical or geriatric parole, a parole that is granted prior to the completion of the prisoner's minimum term shall not become

effective until the prisoner becomes eligible for release on parole.

§ 2.83 Release planning.

(a) All grants of parole shall be conditioned on the development of a suitable release plan and the approval of that plan by the Commission. A parole certificate shall not be issued until a release plan has been approved by the Commission. In the case of mandatory release, the Commission shall review each prisoner's release plan to determine whether the imposition of any special conditions should be ordered to promote the prisoner's rehabilitation and protect the public safety.

(b) If a parole date has been granted, but the prisoner has not submitted a proposed release plan, the appropriate correctional or supervision staff shall assist the prisoner in formulating a release plan for investigation.

(c) After investigation by a Supervision Officer, the proposed release plan shall be submitted to the Commission 30 days prior to the prisoner's parole or mandatory release date.

(d) A Commissioner may retard a parole date for purposes of release planning for up to 120 days without a hearing. If efforts to formulate an acceptable release plan prove futile by the expiration of such period, or if the Offender Supervision staff reports that there are insufficient resources to provide effective supervision for the individual in question, the Commission shall be promptly notified in a detailed report. If the Commission does not order the prisoner to be paroled, the Commission shall suspend the grant of parole and conduct a reconsideration hearing on the next available docket. Following such reconsideration hearing, the Commission may deny parole if it finds that the release of the prisoner without a suitable plan would fail to meet the criteria set forth in § 2.73. However, if the prisoner subsequently presents an acceptable release plan, the Commission may reopen the case and issue a new grant of parole.

(e) The following shall be considered in the formulation of a suitable release plan:

(1) Evidence that the parolee will have an acceptable residence;

(2) Evidence that the parolee will be legitimately employed as soon as released; provided, that in special circumstances, the requirement for immediate employment upon release may be waived by the Commission;

(3) Evidence that the necessary aftercare will be available for parolees who are ill, or who have any other demonstrable problems for which special care is necessary, such as hospital facilities or other domiciliary care; and

(4) Evidence of availability of, and acceptance in, a community program in those cases where parole has been granted conditioned upon acceptance or participation in a specific community program.

§ 2.84 Release to other jurisdictions.

The Commission, in its discretion, may parole any prisoner to live and remain in a jurisdiction other than the District of Columbia.

§ 2.85 Conditions of release.

(a) The following conditions are attached to every grant of parole and are deemed necessary to provide adequate supervision and to protect the public welfare. They are printed on the certificate issued to each parolee and mandatory releasee:

(1) The parolee shall go directly to the district named in the certificate (unless released to the custody of other authorities). Within three days after his release, he shall report to the Supervision Officer whose name appears on the certificate. If in any emergency the parolee is unable to get in touch with his supervision office, he shall communicate with the U.S. Parole Commission, Chevy Chase, Maryland 20815–7286.

(2) If the parolee is released to the custody of other authorities, and after release from the physical custody of such authorities, he is unable to report to the Supervision Officer to whom he is assigned within three days, he shall report instead to the nearest U.S. Probation Officer.

(3) The parolee shall not leave the limits fixed by his certificate of parole without written permission from his Supervision Officer.

(4) The parolee shall notify his Supervision Officer within two days of any change in his place of residence.

(5) The parolee shall make a complete and truthful written report (on a form provided for that purpose) to his Supervision Officer between the first and third day of each month. He shall also report to his Supervision Officer at other times as the officer directs, providing complete and truthful information.

(6) The parolee shall not violate any law, nor shall he associate with persons engaged in criminal activity. The parolee shall report within two days to his Supervision Officer (or supervision office) if he is arrested or questioned by a law-enforcement officer.

(7) The parolee shall not enter into any agreement to act as an informer or special agent for any law-enforcement agency without authorization from the Commission.

(8) The parolee shall work regularly unless excused by his Supervision Officer, and support his legal dependents, if any, to the best of his ability. He shall report within two days to his Supervision Officer any changes in employment or employment status.

(9) The parolee shall not drink alcoholic beverages to excess. He shall not purchase, possess, use, or administer controlled substances (marijuana or narcotic or other habit-forming drugs) unless prescribed or advised for the parolee by a physician. The parolee shall not frequent places where such drugs are illegally sold, dispensed, used, or given away.

(10) The parolee shall not associate with persons who have a criminal record without the permission of his Supervision Officer.

(11) The parole shall not possess a firearm or other dangerous weapon.

(12) The parolee shall permit visits by his Supervision Officer to his residence and to his place of business or occupation. He shall permit confiscation by his Supervision Officer of any materials which the officer believes may constitute contraband in the parolee's possession and which he observes in plain view in the parolee's residence, place of business or occupation, vehicle(s), or on his person. The Commission may also, when a reasonable basis for so doing is presented, modify the conditions of parole to require the parolee to permit the Supervision Officer to conduct searches and seizures of concealed contraband on the parolee's person, and in any building, vehicle, or other area under the parolee's control, at such times as the officer shall decide.

(13) The parolee shall make a diligent effort to satisfy any fine, restitution order, court costs or assessment, and/or court ordered child support or alimony payment that has been, or may be, imposed, and shall provide such financial information as may be requested by his Supervision Officer that is relevant to the payment of the obligation. If unable to pay the obligation in one sum, the parolee shall cooperate with his Supervision Officer in establishing an installment payment schedule.

(14) The parolee shall submit to a drug test whenever ordered by his Supervision Officer.

(15) If released to the District of Columbia, the parolee shall submit to the sanctions imposed by his

Supervision Officer (within the limits established by the approved Schedule of Accountability Through Graduated Sanctions), if the Supervision Officer finds that the parolee has tested positive for illegal drugs or that he has committed any non-criminal violation of the conditions of his parole. Graduated sanctions may include community service, curfew with electronic monitoring, and/or a period of time in a community treatment center. The parolee's failure to cooperate with a graduated sanction imposed by his Supervision Officer will subject the parolee to the issuance of a summons or warrant by the Commission, and a revocation hearing at which the parolee will be afforded the opportunity to contest the violation charge(s) upon which the sanction was based. If the Commission finds that the parolee has violated parole as alleged, the parolee will also be found to have violated this condition. In addition, the Commission may override the imposition of a graduated sanction at any time and issue a warrant or summons if it finds that the parolee is a risk to the public safety or that he is not complying with this condition in good faith.

(b) The Commission or a member thereof may at any time modify or add to the conditions of release. The parolee shall receive notice of the proposed modification and unless waived shall have ten days following receipt of such notice to express his views thereon. Following such ten day period, the Commission shall have 21 days, exclusive of holidays, to order such modification of or addition to the conditions of release. The ten-day notice requirement shall not apply to a modification of the conditions of parole in the following circumstances:

(1) Following a revocation hearing;

(2) Upon a finding that immediate modification of the conditions of parole is required to prevent harm to the parolee or to the public; or

(3) In response to a request by the parolee for a modification of the conditions of parole.

(c) The Commission may, as a condition of parole, require a parolee to reside in a community corrections center, or participate in the program of a residential treatment center, or both, for all or part of the period of parole.

(d) The Commission may require that a parolee remain at his place of residence during nonworking hours and, if the Commission so directs, to have compliance with this condition monitored by telephone or electronic signaling devices. A condition under this paragraph may be imposed only as an alternative to incarceration.

(e) A prisoner who, having been granted a parole date, subsequently refuses to sign the parole certificate, or any other consent form necessary to fulfill the conditions of parole, shall be deemed to have withdrawn the application for parole as of the date of his refusal to sign. To be considered for parole again, the prisoner must reapply for parole.

(f) With respect to prisoners who are required to be released to supervision through good time reductions (mandatory release), the conditions of parole set forth in this rule, and any other special conditions ordered by the Commission, shall be in full force and effect upon the established release date regardless of any refusal by the prisoner to sign his certificate.

(g) Any parolee who absconds from supervision has effectively prevented his sentence from expiring. Therefore, the parolee remains bound by the conditions of his release and violations committed at any time prior to execution of a warrant issued by the Commission, whether before or after the original expiration date, may be charged as a basis for revocation. In such a case, the warrant may be supplemented at any time.

(h) The Commission may require a parolee, when there is evidence of prior or current alcohol dependence or abuse, to participate in an alcohol aftercare treatment program. In such a case, the Commission will require that the parolee abstain from the use of alcohol and/or all other intoxicants during and after the course of treatment.

(i) The Commission may require a parolee, where there is evidence of prior or current drug dependence or abuse, to participate in a drug treatment program, which shall include at least two periodic tests to determine whether parolee has reverted to the use of drugs (including alcohol). In such a case, the Commission will require that the parolee abstain from the use of alcohol and/or all other intoxicants during and after the course of treatment. In the event such condition is imposed prior to an eligible prisoner's release from prison, any grant of parole or reparole shall be contingent upon the prisoner passing all pre-release drug tests administered by prison officials.

(j) Parolees are expected by the Commission to understand the conditions of parole according to their plain meaning, and to seek the guidance of their Supervision Officers before engaging in any conduct that may constitute a violation thereof. Supervision Officers may issue instructions to parolees to refrain from particular conduct that would violate parole, or to take specific steps to avoid or correct a violation of parole, as well as such other directives as may be authorized by the conditions imposed by the Commission.

§ 2.86 Release on parole; rescission for misconduct.

(a) When a parole effective date has been set, actual release on parole on that date shall be conditioned upon the individual maintaining a good conduct record in the institution or prerelease program to which the prisoner has been assigned.

(b) The Commission may reconsider any grant of parole prior to the prisoner's actual release on parole, and may advance or retard a parole effective date or rescind a parole date previously granted based upon the receipt of any new and significant information concerning the prisoner, including disciplinary infractions. The Commission may retard a parole date for disciplinary infractions (*e.g.*, to permit the use of graduated sanctions) for up to 120 days without a hearing, in addition to any retardation ordered under 2.83(d). If a parole effective date is rescinded for disciplinary infractions, an appropriate sanction shall be determined either by adding the appropriate points for negative institutional behavior to the prisoner's total point score, or by reference to § 2.36 if the misconduct is not sufficiently serious to warrant a continuance under § 2.80(j). A total point score of 0–2 shall be adjusted to a total point score of 3 prior to adding points for negative institutional behavior pursuant to the Point Assignment Table at § 2.80(f).

(c) After a prisoner has been granted a parole effective date, the institution shall notify the Commission of any serious disciplinary infractions committed by the prisoner prior to the date of actual release. In such case, the prisoner shall not be released until the institution has been advised that no change has been made in the Commission's order granting parole.

(d) A grant of parole becomes operative upon the authorized delivery of a certificate of parole to the prisoner, and the signing of that certificate by the prisoner, who thereafter becomes a parolee.

§ 2.87 Mandatory release.

(a) When a prisoner has been denied parole at the initial hearing and all subsequent considerations, or parole consideration is expressly precluded by statute, the prisoner shall be released at

the expiration of his or her imposed sentence less the time deducted for any good time allowances provided by statute.

(b) Any prisoner having served his or her term or terms less deduction for good time shall, upon release, be deemed to be released on parole until the expiration of the maximum term or terms for which he or she was sentenced, except that if the offense of conviction was committed before April 11, 1987, such expiration date shall be less one hundred eighty (180) days. Every provision of these rules relating to an individual on parole shall be deemed to include individuals on mandatory release.

§ 2.88 Confidentiality of parole records.

(a) Consistent with the Privacy Act of 1974 (5 U.S.C. 552(b)), the contents of parole records shall be confidential and shall not be disclosed outside the Commission except as provided in paragraphs (b) and (c) of this section.

(b) Information that is subject to release to the general public without the consent of the prisoner shall be limited to the information specified in § 2.37.

(c) Information other than as described in § 2.37 may be disclosed without the consent of the prisoner only pursuant to the provisions of the Privacy Act of 1974 (5 U.S.C. 552(b)) and § 2.56.

§ 2.89 Miscellaneous provisions.

Except to the extent otherwise provided by law, the following sections in Subpart A of this part are also applicable to District of Columbia Code offenders:

2.5 (Sentence aggregation)
2.7 (Committed fines and restitution orders)
2.8 (Mental competency procedures)
2.10 (Date service of sentence commences)
2.16 (Parole of prisoner in State, local, or territorial institution)
2.19 (Information considered)
2.23 (Delegation to hearing examiners)
2.30 (False information or new criminal conduct; Discovery after release)
2.32 (Parole to local or immigration detainers)
2.56 (Disclosure of Parole Commission file)
2.62 (Rewarding assistance in the prosecution of other offenders: criteria and guidelines)
2.65 (Paroling policy for prisoners serving aggregated U.S. and D.C. Code sentences)

§ 2.90 Prior orders of the Board of Parole.

Any order entered by the Board of Parole of the District of Columbia shall be accorded the status of an order of the Parole Commission unless duly reconsidered and changed by the Commission at a regularly scheduled hearing. It shall not constitute grounds for reopening a case that the prisoner is subject to an order of the Board of Parole that fails to conform to a provision of this part.

§ 2.91 Supervision responsibility.

(a) Pursuant to D.C. Code 24–1233(c) and 4203(b)(4), the District of Columbia Court Services and Offender Supervision Agency (CSOSA) shall provide supervision, through qualified Supervision Officers, for all D.C. Code parolees and mandatory releasees under the jurisdiction of the Commission who are released to the District of Columbia. Individuals under the jurisdiction of the Commission who are released to districts outside the D.C. metropolitan area, or who are serving mixed U.S. and D.C. Code sentences, shall be supervised by a U.S. Probation Officer pursuant to 18 U.S.C. 3655.

(b) A parolee or mandatory releasee may be transferred to a new district of supervision with the permission of the supervision offices of both the transferring and receiving district, provided such transfer is not contrary to instructions from the Commission.

§ 2.92 Jurisdiction of the Commission.

(a) Pursuant to D.C. Code 24–431(a), the jurisdiction of the Commission over a parolee shall expire on the date of expiration of the maximum term or terms for which he was sentenced, subject to the provisions of this subpart relating to warrant issuance, time in absconder status, and the forfeiture of credit for time on parole in the case of revocation.

(b) The parole of any parolee shall run concurrently with the period of parole, probation, or supervised release under any other Federal, State, or local sentence.

(c) Upon the expiration of the parolee's maximum term as specified in the release certificate, the parolee's Supervision Officer shall issue a certificate of discharge to such parolee and to such other agencies as may be appropriate.

(d) A termination of parole pursuant to an order of revocation shall not affect the Commission's jurisdiction to grant and enforce any further periods of parole, up to the expiration of the offender's maximum term.

§ 2.93 Travel approval.

(a) A parolee's Supervision Officer may approve travel outside the district of supervision without approval of the Commission in the following situations:

(1) Vacation trips not to exceed thirty days.

(2) Trips, not to exceed thirty days, to investigate reasonably certain employment possibilities.

(3) Recurring travel across a district boundary, not to exceed fifty miles outside the district, for purpose of employment, shopping, or recreation.

(b) Specific advance approval by the Commission is required for all foreign travel, employment requiring recurring travel more than fifty miles outside the district, and vacation travel outside the district of supervision exceeding thirty days. A request for such permission shall be in writing and must demonstrate a substantial need for such travel.

(c) A special condition imposed by the Commission prohibiting certain travel shall apply instead of any general rules relating to travel as set forth in paragraph (a) of this section.

(d) The district of supervision for a parolee under the supervision of the D.C. Community Supervision Office of CSOSA shall be the District of Columbia, except that for the purpose of travel permission under this section the district of supervision will include the D.C. metropolitan area as defined in the certificate of parole.

§ 2.94 Supervision reports to Commission.

An initial supervision report to confirm the satisfactory initial progress of the parolee shall be submitted to the Commission 90 days after the parolee's release from prison, by the officer responsible for the parolee's supervision. A regular supervision report shall be submitted to the Commission by the officer responsible for the supervision of the parolee after the completion of 12 months of continuous community supervision and annually thereafter. The Supervision Officer shall submit such additional reports and information concerning both the parolee, and the enforcement of the conditions of the parolee's supervision, as the Commission may direct. All reports shall be submitted according to the format established by the Commission.

§ 2.95 Release from active supervision.

(a) The Commission, in its discretion, may release a parolee or mandatory releasee from further supervision prior to the expiration of the maximum term or terms for which he or she was sentenced.

(b) Two years after release on supervision, and at least annually thereafter, the Commission shall review the status of each parolee to determine the need for continued supervision. In calculating such two-year period there shall not be included any period of release on parole prior to the most recent release, nor any period served in confinement on any other sentence. A

review shall also be conducted whenever release from supervision is specially recommended by the parolee's Supervision Officer.

(c) In determining whether to grant release from supervision, the Commission shall apply the following guidelines, provided that case-specific factors do not indicate a need for continued supervision:

(1) For a parolee originally classified in the very good risk category and whose current offense did not involve violence, release from supervision may be ordered after two continuous years of incident-free parole in the community;

(2) For a parolee originally classified in the very good risk category and whose current offense involved violence other than high level violence, release from supervision may be ordered after three continuous years of incident-free parole in the community;

(3) For a parolee originally classified in the very good risk category and whose current offense involved high level violence (without death of victim resulting), release from supervision may be ordered after four continuous years of incident-free parole in the community;

(4) For a parolee originally classified in other than the very good risk category, whose current offense did not involve violence, and whose prior record includes not more than one episode of felony violence, release from supervision may be ordered after three continuous years of incident-free parole in the community;

(5) For a parolee originally classified in other than the very good risk category, and whose current offense involved violence other than high level violence, or whose prior record includes two or more episodes of felony violence, release from supervision may be ordered after four continuous years of incident-free parole in the community;

(6) For a parolee who was originally classified in other than the very good risk category and whose current offense involved high level violence (without death of victim resulting), release from supervision may be ordered after five continuous years of incident-free parole in the community;

(7) For any parolee whose current offense involved high level violence with death of victim resulting, release from supervision may be ordered only upon a case-specific finding that, by reason of age, infirmity, or other compelling factors, the parolee is unlikely to be a threat to the public safety.

(d) Decisions to release from supervision prior to completion of the periods specified in this section may be made where it appears that the parolee is a better risk than indicated by the salient factor score (if originally classified in other than the very good risk category), or a less serious risk than indicated by a violent current offense or prior record (if any). However, release from supervision prior to the completion of two years of incident-free supervision will not be granted in any case unless case-specific factors clearly indicate that continued supervision would be counterproductive to the parolee's rehabilitation.

(e) Except as provided in § 2.99(c), cases with pending criminal charge(s) shall not be released from supervision until the disposition of such charge(s) is known. The term ''incident-free'' parole shall include both any reported violations, and any arrest or law enforcement investigation that raises a reasonable doubt as to whether the parolee has been able to refrain from law violations while on parole.

§ 2.96 Order of release.

(a) When the Commission approves a recommendation for release from active supervision, a written order of release from supervision shall be issued and a copy thereof shall be delivered to the releasee.

(b) Each order of release shall state that the conditions of the releasee's parole are waived, except that it shall remain a condition that the releasee shall not violate any law or engage in any conduct that might bring discredit to the parole system, under penalty of possible withdrawal of the order of release or revocation of parole.

(c) An order of release from supervision shall not release the parolee from the custody of the Attorney General or from the jurisdiction of the Commission before the expiration of the term or terms being served.

§ 2.97 Withdrawal of order of release.

If, after an order of release from supervision has been issued by the Commission, and prior to the expiration date of the sentence(s) being served, the parolee commits any new criminal offense or engages in any conduct that might bring discredit to the parole system, the Commission may, in its discretion, do any of the following:

(a) Issue a summons or warrant to commence the revocation process;

(b) Withdraw the order of release from supervision and return the parolee to active supervision; or

(c) Impose any special conditions to the order of release from supervision.

§ 2.98 Summons to appear or warrant for retaking of parolee.

(a) If a parolee is alleged to have violated the conditions of his release, and satisfactory evidence thereof is presented, the Commission or a member thereof may:

(1) Issue a summons requiring the offender to appear for a preliminary interview or local revocation hearing; or

(2) Issue a warrant for the apprehension and return of the offender to custody.

(b) A summons or warrant under paragraph (a)(1) of this section may be issued or withdrawn only by the Commission, or a member thereof.

(c) Any summons or warrant under this section shall be issued as soon as practicable after the alleged violation is reported to the Commission, except when delay is deemed necessary. Issuance of a summons or warrant may be withheld until the frequency or seriousness of the violations, in the opinion of the Commission, requires such issuance. In the case of any parolee who is charged with a criminal offense and who is awaiting disposition of such charge, issuance of a summons or warrant may be:

(1) Temporarily withheld;

(2) Issued by the Commission and held in abeyance;

(3) Issued by the Commission and a detainer lodged with the custodial authority; or

(4) Issued for the retaking of the parolee.

(d) A summons or warrant may be issued only within the prisoner's maximum term or terms, except that in the case of a prisoner who has been mandatorily released from a sentence imposed for an offense committed before April 11, 1987, such summons or warrant may be issued only within the maximum term or terms less one hundred eighty days. A summons or warrant shall be considered issued when signed and either:

(1) Placed in the mail; or

(2) Sent by electronic transmission to the appropriate law enforcement authority.

(e) The issuance of a warrant under this section operates to bar the expiration of the parolee's sentence. Such warrant maintains the Commission's jurisdiction to retake the parolee either before or after the normal expiration date of the sentence and to reach a final decision as to the revocation of parole and the forfeiture of time pursuant to D.C. Code 24–206(a).

(f) A summons or warrant issued pursuant to this section shall be accompanied by a warrant application stating the charges against the parolee, the applicable procedural rights under the Commission's regulations, and the possible actions which may be taken by the Commission. A summons shall

specify the time and place the parolee shall appear. Failure to appear in response to a summons shall be grounds for issuance of a warrant.

(g) Every warrant issued by the Board of Parole of the District of Columbia prior to August 5, 2000, shall be deemed to be a valid warrant of the U.S. Parole Commission unless withdrawn by the Commission. Such warrant shall be executed as provided in § 2.99, and every offender retaken upon such warrant shall be treated for all purposes as if retaken upon a warrant issued by the Commission.

§ 2.99 Execution of warrant and service of summons.

(a) Any officer of any Federal or District of Columbia correctional institution, any Federal Officer authorized to serve criminal process, or any officer or designated civilian employee of the Metropolitan Police Department of the District of Columbia, to whom a warrant is delivered, shall execute such warrant by taking the parolee and returning him to the custody of the Attorney General.

(b) Upon the arrest of the parolee, the officer executing the warrant shall deliver to him a copy of the warrant application stating the charges against the parolee, the applicable procedural rights under the Commission's regulations, and the possible actions which may be taken by the Commission.

(c) If execution of the warrant is delayed pending disposition of local charges, for further investigation, or for some other purpose, the parolee is to be continued under supervision by the Supervision Officer until the normal expiration of the sentence, or until the warrant is executed, whichever first occurs. Monthly supervision reports are to be submitted, and the parolee must continue to abide by all the conditions of release.

(d) If any other warrant for the arrest of the parolee has been executed or is outstanding at the time the Commission's warrant is executed, the arresting officer may, within 72 hours of executing the Commission's warrant, release the parolee to such other warrant and lodge the Commission's warrant as a detainer, voiding the execution thereof, if such action is consistent with the instructions of the Commission. In other cases, a parolee may be released from an executed warrant whenever the Commission finds such action necessary to serve the ends of justice.

(e) A summons to appear at a preliminary interview or revocation hearing shall be served upon the parolee in person by delivering to the parolee a copy of the summons and the application therefor. Service shall be made by any Federal or District of Columbia officer authorized to serve criminal process and certification of such service shall be returned to the Commission.

(f) Official notification of the issuance of a Commission warrant shall authorize any law enforcement officer within the United States to hold the parolee in custody until the warrant can be executed in accordance with paragraph (a) of this section.

§ 2.100 Warrant placed as detainer and dispositional review.

(a) When a parolee is in the custody of other law enforcement authorities, or is serving a new sentence of imprisonment imposed for a crime committed while on parole or for a violation of some other form of community supervision, a parole violation warrant may be lodged against him as a detainer.

(b) If the parolee is serving a new sentence of imprisonment, and is eligible and has applied for parole under the Commission's jurisdiction, a dispositional revocation hearing shall be scheduled simultaneously with the initial hearing on the new sentence. In such cases, the warrant shall not be executed except upon final order of the Commission following such hearing, as provided in § 2.81(c). In any other cases, the detainer shall be reviewed on the record pursuant to paragraph (c) of this section.

(c) If the parolee is serving a new sentence of imprisonment that does not include eligibility for parole under the Commission's jurisdiction, the Commission shall review the detainer upon the request of the parolee. Following such review, the Commission may:

(1) Withdraw the detainer and order reinstatement of the parolee to supervision upon release from custody, or close the case if the expiration date has passed.

(2) Order a dispositional revocation hearing to be conducted by a hearing examiner or an official designated by the Commission at the institution in which the parolee is confined. In such case, the warrant shall not be executed except upon final order of the Commission following such hearing.

(3) Let the detainer stand until the new sentence is completed. Following the release of the parolee, and the execution of the Commission's warrant, an institutional revocation hearing shall be conducted after the parolee is returned to federal custody.

(d) Dispositional revocation hearings pursuant to this section shall be conducted in accordance with the provisions at § 2.103 governing institutional revocation hearings, except that a hearing conducted at a state or local facility may be conducted by a hearing examiner, hearing examiner panel, or other official designated by the Commission. Following a revocation hearing conducted pursuant to this section, the Commission may take any action specified in § 2.105.

(1) The date the violation term commences is the date the Commission's warrant is executed. It shall be the policy of the Commission that the parolee's violation term (i.e., the unexpired term that remained to be served at the time the parolee was last released on parole) shall start to run only upon his release from the confinement portion of the sentence for the new offense, or the date of reparole granted pursuant to this subpart, whichever comes first.

(2) A parole violator whose parole is revoked shall be given credit for all time in confinement resulting from any new offense or violation that is considered by the Commission as a basis for revocation, but solely for the limited purpose of satisfying the time ranges in the reparole guidelines at § 2.81. The computation of the prisoner's sentence, and forfeiture of time on parole pursuant to D.C. Code 24–206(a), is not affected by such guideline credit.

§ 2.101 Revocation; Preliminary interview.

(a) Interviewing officer. A parolee who is retaken on a warrant issued by the Commission shall promptly be offered a preliminary interview by a Supervision Officer (or other official designated by the Commission). The purpose of the preliminary interview is to enable the Commission to determine if there is probable cause to believe that the parolee has violated his parole as charged, and if so, whether a local or institutional revocation hearing should be conducted. Any Supervision Officer or U.S. Probation Officer in the district where the prisoner is confined may conduct the preliminary interview, provided he or she is not the officer who recommended that the warrant be issued.

(b) Notice and opportunity to postpone interview. At the beginning of the preliminary interview, the interviewing officer shall ascertain that the warrant application has been given to the parolee as required by § 2.99(b). The interviewing officer shall advise the parolee that he may have the preliminary interview postponed in order to obtain an attorney (and/or witnesses and evidence on his behalf), and that he may apply for counsel to be

assigned by the D.C. Public Defender Service or otherwise obtained. In addition, the parolee may request the Commission to obtain the presence of adverse witnesses (*i.e.*, persons who have given information upon which revocation may be based). Such adverse witnesses may be requested to attend the postponed preliminary interview if the parolee meets the requirements at § 2.102(a) for a local revocation hearing. The parolee shall be given advance notice of the time and place of a postponed preliminary interview.

(c) Review of the charges. At the preliminary interview, the interviewing officer shall review the violation charges with the parolee and shall apprise the parolee of the evidence that has been presented to the Commission. The interviewing officer shall ascertain whether the parolee admits or denies each charge listed on the warrant application, as well as the parolee's explanation of the facts giving rise to each charge. The officer shall also receive the statements of any witnesses and documentary evidence on behalf of the parolee. At a postponed preliminary interview, the hearing officer shall also permit the cross-examination of any adverse witnesses in attendance. However, in such cases, the Commission will ordinarily have ordered a combined preliminary interview and local revocation hearing as provided in paragraph (f) of this section.

(d) Probable cause determination. At the conclusion of the preliminary interview, the interviewing officer shall inform the parolee of his recommended decision as to whether there is probable cause to believe that the parolee has violated the conditions of release, and shall submit to the Commission a digest of the interview together with a recommended decision.

(1) If the interviewing officer's recommended decision is that there is no probable cause to believe that the parolee has violated the conditions of release, a Commissioner shall review such recommended decision and notify the parolee of his final decision concerning probable cause as expeditiously as possible. A decision to release the parolee shall be implemented without delay.

(2) If the interviewing officer's recommended decision is that there is probable cause to believe that the parolee has violated a condition (or conditions) of his release, the Commissioner shall notify the parolee of the final decision concerning probable cause within 21 days of the date of the preliminary interview.

(3) Release notwithstanding probable cause. If the Commission finds probable cause to believe that the parolee has violated the conditions of his release, reinstatement to supervision or release pending further proceedings may be ordered in the Commission's discretion if it determines that:

(i) Continuation of revocation proceedings is not warranted despite the violations found; or

(ii) Incarceration pending further revocation proceedings is not warranted by the alleged frequency or seriousness of such violation or violations, and the parolee is neither likely to fail to appear for further proceedings, nor constitutes a danger to himself or others.

(e) Conviction as probable cause. Conviction of any Federal, District of Columbia, State, or local crime committed subsequent to release by a parolee shall constitute probable cause for the purposes of this section, and no preliminary interview shall be conducted unless ordered by a Commissioner to consider additional violation charges (including, but not limited to, unadjudicated criminal offenses) that may be determinative of the Commission's decision regarding revocation and/or reparole.

(f) Local revocation hearing. A postponed preliminary interview may be conducted as a local revocation hearing by an examiner or other officer designated by a Commissioner provided that the parolee has been advised that the postponed preliminary interview will constitute his final revocation hearing. It shall be the Commission's policy to conduct a combined preliminary interview and local revocation hearing whenever adverse witnesses are required to appear and give testimony with respect to contested charges.

(g) Late received charges. If the Commission is notified of an additional charge after probable cause has been found to proceed with a revocation hearing, the Commission may:

(1) Remand the case for a supplemental preliminary interview if the new charge may be contested by the parolee and possibly result in the appearance of witness(es) at the revocation hearing;

(2) Notify the prisoner that the additional charge will be considered at the revocation hearing without conducting a supplemental interview; or

(3) Determine that the new charge shall not be considered at the revocation hearing.

§ 2.102 Place of revocation hearing.

(a) If the parolee requests a local revocation hearing, he shall be given a revocation hearing reasonably near the place of the alleged violation(s) or arrest, with the opportunity to contest the charges against him, if the following conditions are met:

(1) The parolee has not been convicted of a crime committed while under supervision; and

(2) The parolee denies all charges against him.

(b) The parolee shall also be given a local revocation hearing if he admits (or has been convicted of) one or more charged violations, but denies at least one unadjudicated charge that may be determinative of the Commission's decision regarding revocation and/or reparole, and requests the presence of one or more adverse witnesses regarding that contested charge. If the appearance of such witness at the hearing is precluded by the Commission for good cause, a local revocation hearing shall not be ordered.

(c) If there are two or more contested charges, a local revocation hearing may be conducted near the place of the violation chiefly relied upon by the Commission as a basis for the issuance of the warrant or summons.

(d) A parolee who voluntarily waives his right to a local revocation hearing, or who admits one or more charged violations without contesting any unadjudicated charge that may be determinative of the Commission's decision regarding revocation and/or reparole, or who is retaken following release from a sentence of imprisonment for a new crime, shall be given an institutional revocation hearing upon his return or recommitment to an institution. An institutional revocation hearing may also be conducted in the District of Columbia jail or prison facility in which the parolee is being held. (However, a Commissioner may, on his own motion, designate any such case for a local revocation hearing instead.) The difference in procedures between a ''local revocation hearing'' and an ''institutional revocation hearing'' is set forth in § 2.103.

(e) A parolee retaken on a warrant issued by the Commission shall be retained in custody until final action relative to revocation of his parole, unless otherwise ordered by the Commission under § 2.101(e)(3). A parolee who has been given a revocation hearing pursuant to the issuance of a summons shall remain on supervision pending the decision of the Commission, unless the Commission has provided otherwise.

(f) A local revocation hearing shall be scheduled to be held within sixty days of the probable cause determination. Institutional revocation hearings shall

be scheduled to be held within ninety days of the date of the execution of the violator warrant upon which the parolee was retaken. However, if a parolee requests and receives any postponement, or consents to a postponement, or by his actions otherwise precludes the prompt conduct of such proceedings, the above-stated time limits may be extended. A local revocation hearing may be conducted by an examiner, hearing examiner panel, or other official designated by the Commission.

§ 2.103 Revocation hearing procedure.

(a) The purpose of the revocation hearing shall be to determine whether the parolee has violated the conditions of his release and, if so, whether his parole or mandatory release should be revoked or reinstated.

(b) At a local revocation hearing, the alleged violator may present voluntary witnesses and documentary evidence in his behalf. The alleged violator may also seek the compulsory attendance of any adverse witnesses for cross-examination, and any relevant favorable witnesses who have not volunteered to attend. At an institutional revocation hearing, the alleged violator may present voluntary witnesses and documentary evidence in his behalf, but may not request the Commission to secure the attendance of any adverse or favorable witness. At any hearing, the presiding hearing officer or examiner may limit or exclude any irrelevant or repetitious statement or documentary evidence, and may prohibit the parolee from contesting matters already adjudicated against him in other forums.

(c) At a local revocation hearing, the Commission shall, on the request of the alleged violator, require the attendance of any adverse witnesses who have given statements upon which revocation may be based. The adverse witnesses who are present shall be made available for questioning and cross-examination in the presence of the alleged violator. The Commission may also require the attendance of adverse witnesses on its own motion, and may excuse any requested adverse witness from appearing at the hearing (or from appearing in the presence of the alleged violator) if it finds good cause for so doing. A finding of good cause for the non-appearance of a requested adverse witness may be based, for example, on a significant possibility of harm to the witness, the witness not being reasonably available, and/or the availability of documentary evidence that is an adequate substitute for live testimony.

(d) All evidence upon which the finding of violation may be based shall be disclosed to the alleged violator at or before the revocation hearing. The hearing officer or examiner panel may disclose documentary evidence by permitting the alleged violator to examine the document during the hearing, or where appropriate, by reading or summarizing the document in the presence of the alleged violator.

(e) An alleged violator may be represented by an attorney at either a local or an institutional revocation hearing. In lieu of an attorney, an alleged violator may be represented at any revocation hearing by a person of his choice. However, the role of such non-attorney representative shall be limited to offering a statement on the alleged violator's behalf. Only licensed attorneys shall be permitted to question witnesses, make objections, and otherwise provide legal representation for parolees, except in the case of law students appearing before the Commission as part of a court-approved clinical practice program, with the consent of the alleged violator, and under the personal direction of a lawyer or law professor who is physically present at the hearing.

§ 2.104 Issuance of subpoena for appearance of witnesses or production of documents.

(a)(1) If any adverse witness (*i.e.*, a person who has given information upon which revocation may be based) refuses, upon request by the Commission, to appear at a preliminary interview or local revocation hearing, a Commissioner may issue a subpoena for the appearance of such witness. Such subpoena may also be issued at the discretion of a Commissioner in the event such adverse witness is judged unlikely to appear as requested.

(2) In addition, a Commissioner may, upon a showing by the parolee that a witness whose testimony is necessary to the proper disposition of his case will not appear voluntarily at a local revocation hearing or provide an adequate written statement of his testimony, issue a subpoena for the appearance of such witness at the revocation hearing.

(3) Such subpoenas may also be issued at the discretion of a Commissioner if deemed necessary for the orderly processing of the case.

(b) A subpoena issued pursuant to paragraph (a) of this section may require the production of documents as well as, or in lieu of, a personal appearance. The subpoena shall specify the time and the place at which the person named therein is commanded to appear, and shall specify any documents required to be produced.

(c) A subpoena may be served by any Federal or District of Columbia officer authorized to serve criminal process. The subpoena may be served at any place within the judicial district in which the place specified in the subpoena is located, or any place where the witness may be found. Service of a subpoena upon a person named therein shall be made by delivering a copy thereof to such a person.

(d) If a person refuses to obey such subpoena, the Commission may petition a court of the United States for the judicial district on which the parole proceeding is being conducted, or in which such person may be found, to require such person to appear, testify, or produce evidence. If the court issues an order requiring such person to appear before the Commission, failure to obey such an order is punishable as contempt. 18 U.S.C. 4214 (1976).

§ 2.105 Revocation decisions.

(a) Whenever a parolee is summoned or retaken by the Commission, and the Commission finds by a preponderance of the evidence that the parolee has violated one or more conditions of parole, the Commission may take any of the following actions:

(1) Restore the parolee to supervision, including where appropriate:

(i) Reprimand the parolee;

(ii) Modify the parolee's conditions of release; or

(iii) Refer the parolee to a residential community treatment center for all or part of the remainder of his original sentence; or

(2) Revoke parole.

(b) If parole is revoked pursuant to this section, the Commission shall also determine whether immediate reparole is warranted or whether parole should be terminated pursuant to D.C. Code 24–206(a). Termination of parole shall return the parolee to prison. If the parolee is returned to prison, the Commission shall also determine a presumptive release date pursuant to § 2.81.

(c) Decisions under this section shall be made upon the concurrence of two Commissioner votes, except that a decision to override an examiner panel recommendation shall require the concurrence of three Commissioner votes. The Commission's decision shall ordinarily be issued within 21 days of the hearing, excluding weekends and holidays.

(d) Pursuant to D.C. Code 24–206(a), a parolee whose parole is revoked by the Commission shall receive no credit toward his sentence for time spent on

parole, including any time the parolee may have spent in confinement on other sentences (or in a halfway house as a condition of parole) prior to the execution of the Commission's warrant.

(e) Notwithstanding paragraphs (a) through (d) of this section, prisoners committed under the Federal Youth Corrections Act shall not be subject to forfeiture of time on parole, but shall serve uninterrupted sentences from the date of conviction except as provided in § 2.10(b) and (c). This exception from D.C. Code 24–206(a) does not apply to prisoners serving sentences under the D.C. Youth Rehabilitation Act, to which D.C. Code 24–206(a) is fully applicable.

(f) In determining whether to revoke parole for non-compliance with a condition requiring payment of a fine, restitution, court costs or assessment, and/or court ordered child support or alimony payment, the Commission shall consider the parolee's employment status, earning ability, financial resources, and any other special circumstances that may have a bearing on the matter. Revocation shall not be ordered unless the parolee is found to be deliberately evading or refusing compliance.

§ 2.106 Youth Rehabilitation Act.

(a) Regulations governing YRA offenders and D.C. Code FYCA offenders. The provisions of this section shall apply to offenders sentenced pursuant to the Youth Rehabilitation Act of 1985 (D.C. Code 24–801 *et seq.*) (YRA), and to D.C. Code offenders sentenced under the former Federal Youth Corrections Act (former 18 U.S.C. 5005 *et seq.*) (FYCA).

(b) Application of this subpart to YRA offenders. All provisions of this subpart that apply to adult offenders also apply to YRA offenders unless a specific exception is made for YRA (or youth) offenders. The specific exceptions for YRA offenders, apart from this section, are found in § 2.71(b) (timing of initial parole hearings), § 2.75(b) (timing of reconsideration hearings), § 2.80(i) (guidelines for decisions at initial hearings), and § 2.80(l) (guidelines for decisions at subsequent hearings).

(c) No further benefit finding. If there is a finding that a YRA offender will derive no further benefit from treatment, such prisoner shall be considered for parole, and for any other action, exclusively under the provisions of this subpart that are applicable to adult offenders. Such a finding may be made pursuant to D.C. Code 24–805 by the Department of Corrections or by the Bureau of Prisons, and shall be promptly forwarded to the Commission. However, if the finding is appealed to the sentencing judge, the prisoner will continue to be treated under the provisions pertaining to YRA offenders until the judge makes a final decision denying the appeal.

(d) Program plans. At a YRA prisoner's initial parole hearing, a program plan for the prisoner's treatment shall be submitted by institutional staff and reviewed by the hearing examiner. Any proposed modifications to the plan shall be discussed at the hearing, although further relevant information may be presented and considered after the hearing. The plan shall adequately account for the risk implications of the prisoner's current offense and criminal history and shall address the prisoner's need for rehabilitational training. The program plan shall also include an estimated date of completion. The criteria at § 2.64(d) for successful response to treatment programs shall be considered by the Commission in determining whether the proposed program plan would effectively reduce the risk to the public welfare.

(e) Parole violators. A YRA parolee who has had his parole revoked shall be scheduled for a rehearing within six months of the revocation hearing to review the new program plan prepared by institutional staff, unless a parole effective date is granted after the revocation hearing. Such program plan shall reflect a thorough reassessment of the prisoner's rehabilitational needs in light of the prisoner's failure on parole. Decisions on reparole shall be made using the guidelines at § 2.80. If a YRA parolee is sentenced to a new prison term of one year or more for a crime committed while on parole, the case shall be referred to correctional authorities for consideration of a ''no further benefit'' finding.

(f) Unconditional Discharge From Supervision. (1) A YRA parolee may be unconditionally discharged from supervision after service of one year on parole supervision if the Commission finds that supervision is no longer needed to protect the public safety. A review of the parolee's file shall be conducted after the conclusion of each year of supervision upon receipt of an annual progress report, and upon receipt of a final report to be submitted by the supervision officer six months prior to the sentence expiration date.

(2) In making a decision concerning unconditional discharge, the Commission shall consider the facts and circumstances of each case, focusing on the risk the parolee poses to the public and the benefit he may obtain from further supervision. The decision shall be made after an analysis of case-specific factors, including, but not limited to, the parolee's prior criminal history, the offense behavior that led to his conviction, record of drug or alcohol dependence, employment history, stability of residence and family relationships, and the number and nature of any incidents while under supervision (including new arrests, alleged parole violations, and criminal investigations).

(3) An order of unconditional discharge from supervision terminates the YRA offender's sentence. Whenever a YRA offender is unconditionally discharged from supervision, the Commission shall issue a certificate setting aside the offender's conviction. If the YRA offender is not unconditionally discharged from supervision prior to the expiration of his sentence, a certificate setting aside the conviction may be issued nunc pro tunc if the Commission finds that the failure to issue the decision on time was due to administrative delay or error, or that the Supervision Officer failed to present the Commission with a progress report before the end of the supervision term, and the offender's own actions did not contribute to the absence of the final report. However, the offender must have deserved to be unconditionally discharged from supervision before the end of his supervision term for a nunc pro tunc certificate to issue.

§ 2.107 Interstate Compact.

(a) Pursuant to D.C. Code 24–1233(b)(2)(G), the Director of the Court Services and Offender Supervision Agency (CSOSA), or his designee, shall be the Compact Administrator with regard to the following individuals on parole supervision pursuant to the Interstate Parole and Probation Compact authorized by D.C. Code 24–251:

(1) All D.C. Code parolees who are under the supervision of agencies in jurisdictions outside the District of Columbia; and

(2) All parolees from other jurisdictions who are under the supervision of CSOSA within the District of Columbia.

(b) Transfers of supervision pursuant to the Interstate Compact, where appropriate, may be arranged by the Compact Administrator, or his designee, and carried out with the approval of the Parole Commission. A D.C. Code parolee who is under the Parole Commission's jurisdiction will ordinarily be released or transferred to the supervision of a U.S. Probation Office outside the District of Columbia.

(c) Upon receipt of a report that a D.C. Code parolee, who is under supervision pursuant to the Interstate Compact in a

jurisdiction outside the District of Columbia, has violated his or her parole, the Commission may issue a warrant pursuant to the procedures of § 2.98. The warrant may be executed as provided as in § 2.99. A parolee who is arrested on such a warrant shall be considered to be a prisoner in federal custody, and may be returned to the District of Columbia or designated to a facility of the Bureau of Prisons at the request of the Commission.

(d) If a parolee from another jurisdiction, who is under the supervision of CSOSA pursuant to the Interstate Compact, is alleged to have violated his or her parole, the Compact Administrator or his designee may issue a temporary warrant to secure the arrest of the parolee pending issuance of a warrant by the original paroling agency. If so requested, the Commission will conduct a courtesy revocation hearing on behalf of the original paroling agency whenever a revocation hearing within the District of Columbia is required.

(e) The term ''D.C. Code parolee'' shall include any felony offender who is serving a period of parole or mandatory release supervision pursuant to a sentence of imprisonment imposed under the District of Columbia Code.

Dated: July 18, 2000.

Michael J. Gaines,

Chairman, Parole Commission.

[FR Doc. 00–18602 Filed 7–25–00; 8:45 am]

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DEPARTMENT OF LABOR

Office of the Secretary

29 CFR Part 4

RIN 1215–AB26

Service Contract Act; Labor Standards for Federal Service Contracts

AGENCY: Wage and Hour Division, Employment Standards Administration, Labor.

ACTION: Final rule.

SUMMARY: Pursuant to Section 4(b) of the McNamara-O'Hara Service Contract Act (SCA), the Department of Labor (DOL or the Department) is issuing a temporary exemption from coverage for certain subcontracts for commercial services. On this same date, the Department of Labor is separately proposing a similar exemption for both prime contracts and subcontracts. This exemption mirrors the subcontract portion of the proposed rule and will remain in effect for the period of one year or until final action is taken on the DOL proposed exemption for both prime and subcontracts, whichever occurs first. The exemption for subcontracts was determined to be necessary and proper in the public interest to avoid the serious impairment of government business, and is in accord with the remedial purpose of the SCA to protect prevailing labor standards.

EFFECTIVE DATE: August 25, 2000.

FOR FURTHER INFORMATION CONTACT: William W. Gross, Director, Office of Wage Determinations, Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Room S–3028, 200 Constitution Avenue, N.W., Washington, D.C. 20210; telephone (202) 693–0062. This is not a toll-free number.

SUPPLEMENTARY INFORMATION:

I. Paperwork Reduction Act

This rule contains no reporting or recordkeeping requirements subject to the Paperwork Reduction Act of 1980 (Pub. L. 96–511). The existing information collection requirements contained in Regulations, 29 CFR Part 4 were previously approved by the Office of Management and Budget under OMB control number 1215–0150.

II. Background

On October 1, 1995, the Federal Acquisition Regulations were amended to implement provisions of the Federal Acquisition Streamlining Act (FASA). One provision of the final regulation, 48 CFR 12.504(a)(10)), provided that the requirements of the McNamara-O'Hara Service Contract Act (SCA) are not applicable to subcontracts at any tier for the acquisition of commercial items or services.

After a subsequent review of the issue by the FAR Council, the Administrator for Federal Procurement Policy wrote to the Secretary of Labor and requested that the Department propose an exemption for a more limited group of commercial service contracts (both prime contracts and subcontracts). The Administrator stated that the FAR Council had concluded that a blanket exemption of all subcontracts for commercial items may not adequately serve the Administration's policy of supporting exemptions of the SCA only where they do not undermine the purposes for which the SCA was enacted. Therefore the FAR Council agreed that any exemption from the coverage of SCA for subcontracts for the acquisition of commercial items or components should be accomplished under the Secretary of Labor's authority in the SCA, and stated that it would withdraw the FAR provision.

The FAR Council indicated that the adoption of their recommendations will further the commitment of the Administration to be more commercial-like, encourage broader participation in government procurement by companies doing business in the commercial sector, and reinforce their commitment to reduce government-unique terms and conditions from their contracts. Furthermore, the FAR Council represented that the limited exemptions that they proposed would be in accord with the remedial purpose of the SCA to protect prevailing labor standards.

The Department of Labor on this date has issued a Notice of Proposed Rulemaking (NPRM) to amend the SCA Regulations to implement the exemptions requested by the FAR Council. The FAR Council is contemporaneously withdrawing its current rule that exempts commercial subcontracts from the application of SCA (48 CFR 12.504(a)(10)). As a result of the FAR Council's actions, a small group of commercial subcontracts that were previously exempted under the FAR rule and that also meet the requirements of DOL's proposed rule could change from exempt to nonexempt and back to exempt if the DOL proposal becomes final as it is currently proposed. The Department, pursuant to its authority under section 4(b) of the SCA, finds that a temporary, limited exemption from the SCA is necessary and proper in the public interest to avoid the serious impairment of government business. This exemption is necessary to prevent the disruption that could be caused by such changes, including the possible disruption of services if the current subcontractor does not agree to continue the subcontract services under the requirements of SCA. Furthermore, the Department finds that as a result of the criteria applied to the exempt services, this temporary, limited exemption is in accord with the remedial purpose of the Act to protect prevailing labor standards.

This exemption does not apply to all commercial subcontracts that may have been exempt under the now withdrawn FAR rule nor does it apply to any prime contracts. The exemption is limited solely to those subcontracts that (1) were or would have been exempt under the now withdrawn FAR rule and (2) would be exempt under the DOL proposed rule if that rule becomes final in its current form. The exemption will be in effect for one year or until final action is taken on the NPRM issued this date, whichever occurs first. The Department notes that it intends to proceed expeditiously with this

rulemaking and anticipates that a final rule, after review of all of the comments, will be issued within six months.

The Department also finds that there is good cause to issue this temporary final rule without prior notice and comment. Prior notice and comment would be contrary to the public interest because of the disruption to contractors and to the provision of services to the Government caused by such changes from SCA-exempt, to SCA-covered, to SCA-exempt over the period of less than one year.

III. Summary of the Exemptions

This rule addresses two separate but somewhat related issues. First, the current exemption for the maintenance and repair of Automated Data Processing (ADP) equipment, 29 CFR 4.123(e)(1), is modified to apply the exemption to subcontracts, and with respect to subcontracts, reflects terminology changes in law that have occurred, and applies the exemption to installation services. Second, a new exemption, similar to the current ADP exemption, is added to 4.123(e) to exempt subcontracts for a specified subset of commercial services that also meet certain criteria.

Revision of the current ADP exemption

This final rule retains the current language of the ADP exemption for application to prime contracts and adds a new subparagraph (2) to § 4.123(e) for application to subcontracts. The new subparagraph first reflects changes in terminology stemming from the passage of the Clinger-Cohen Act of 1996, 40 U.S.C. 1401 *et seq.*, which set forth a new framework for the management and acquisition of information technology and replaced the ''ADP'' terminology originally in the Brooks Automatic Data Processing Act, 40 U.S.C. 759, with ''information technology'' to reflect the convergence of ADP and telecommunications equipment and technology.

As defined at 40 U.S.C. 1401(3) and incorporated in the FAR, 48 CFR 2.101, the term ''information technology,'' with respect to an executive agency, means ''any equipment or interconnected system or subsystem of equipment that is used in the automatic acquisition, storage, manipulation, management, movement, control, display, switching, interchange, transmission, or reception of data or information.'' Under this definition, equipment is considered to be used by an executive agency if the agency uses the equipment directly or if the equipment is used by a contractor under a contract which requires the use of such equipment, or requires the use of such equipment to a significant extent in the performance of a service or the furnishing of a product. The term ''information technology'' does not include any equipment that is acquired by a contractor incidental to a contract; or any equipment that contains imbedded information technology that is used as an integral part of the product, but the principal function of which is not the acquisition, storage, manipulation, management, movement, control, display, switching, interchange, transmission, or reception of data or information. For example, HVAC (heating, ventilation, and air conditioning) equipment such as thermostats or temperature control devices and medical equipment where information technology is integral to its operation, is not information technology.

In addition, the final rule applies to installation services (where those services are not subject to the requirements of the Davis-Bacon Act).

New exemption for Certain Commercial Service Subcontracts

In certain situations, an employee's work on a government contract represents a small portion of his or her time and the balance of the time is spent on commercial work. In such cases, the FAR Council represents that the Government loses the full benefits of competition for its service contracts because some contractors decline to compete for Government work due to specific government requirements. Consistent with the recommendation of the FAR Council, this exemption is limited to those subcontracts where the services being procured are such that it would be more efficient and practical for the subcontractor to perform the services with a workforce that is not primarily assigned to the performance of government work. In addition, in order that the exemption comport with the statutory requirement that it be in accord with the remedial purposes of the Act to protect prevailing labor standards, a number of criteria must be satisfied. First, the proposed exemption would apply only when the subcontract award is not determined primarily upon the factor of cost. Therefore, the subcontractor providing the best service at a somewhat higher or lower cost would not be at a competitive disadvantage. Second, the criteria would limit the application of the exemption to circumstances where the nature of the procurement dictates that the most efficient and practical performance of the workload can be accomplished with a workforce that is not dedicated to working primarily on the Government contract. Thus, the competitive pressures upon employee wages that might exist if the services were performed by a workforce dedicated to the Government contract would not come into play on the subcontracts within the scope of the exemption. Furthermore, even if a subcontractor might be inclined to reduce wages to secure the subcontract, the criteria would forbid that practice.

Under this rule, the following criteria for exemption are applied to a short list of services. The exemption applies only if the services under the subcontract meet all of the following criteria.

(1) *The services under the subcontract are commercial—i.e., they are offered and sold regularly to non-Governmental customers, and are provided by the subcontractor to the general public in substantial quantities in the course of normal business operations.*

The basic underlying purpose of the exemption is to permit a prospective subcontractor to utilize its commercial compensation practices for both Government and private commercial work. If the prospective subcontractor does not currently perform the solicited services, then conforming to the SCA requirements would not cause the subcontractor to alter its commercial compensation practices.

(2) *The subcontract will be awarded on a sole source basis or the subcontractor will be selected for award on the basis of other factors in addition to price. In such cases, price must be equal to or less important than the combination of other non-price or cost factors in selecting the subcontractor.*

One of the basic purposes of the Service Contract Act is to counteract the negative impact that competition based on price alone may have upon wages. If a subcontract is awarded on a sole source basis, there is no competition and price is clearly not the basis for awarding the subcontract.

For the majority of other subcontracts that are competitively awarded, this criterion would attempt to largely remove wages from consideration by making quality of service and other non-cost factors equal to or more important than the bottom line price. If one assumes that the best employees (contractors) are paid (pay) higher wages, then this criterion would allow these employees (contractors) to compete on the basis of the employees' increased productivity and higher quality service. These employees/contractors should not be disadvantaged even though the employee wages and possibly the resulting subcontract price are somewhat higher than the lowest offer.

(3) *The subcontract services are furnished at prices which are, or are based on, established catalog or market prices. An established price is a price included in a catalog, price list, schedule, or other form that is regularly maintained by the subcontractor, is either published or otherwise available for inspection by customers, and states prices at which sales are currently, or were last, made to a significant number of buyers constituting the general public. An established market price is a current price, established in the usual course of trade between buyers and sellers free to bargain, which can be substantiated from sources independent of the manufacturer or subcontractor. Normally, market price information is taken from independent market reports, but market price could be established by surveying the firms in a particular industry or market.*

This criterion ensures that the subcontractor will provide the services to the Government on the same basis that the subcontractor services commercial accounts. Combined with the other criteria, this requirement should ensure that subcontractors do not decrease employee compensation as a part of the competitive contracting process.

(4) *All of the service employees who will perform the services under the subcontract spend only a small portion of their time (a monthly average of less than 20 percent of the available hours on an annualized basis, or less than 20 percent of available hours during the contract period if the contract period is less than a month) servicing the Government subcontract.*

If the employees spend only a small portion of their available work hours on the Government contract, the subcontractor would not likely be willing to alter its compensation practices simply to obtain the subcontract. (Note: Criterion 5 would also specifically preclude any such change in compensation practices.) Furthermore, the criteria for exemption will not be satisfied by rotating the workforce and having different employees work on the contract each day of the week. In the Department's experience it would be extraordinary for a contractor to staff a contract in this manner. Therefore in such a case, although each individual employee would spend less than 20% of his/her work hours on the Government contract, a prime contractor could not certify—as required by Criterion 6—that all or nearly all offerors would staff the contract with service employees who spend only a small portion of their time on the project.

(5) *The subcontractor utilizes the same compensation (wage and fringe benefits) plan for all service employees performing work under the subcontract as the subcontractor uses for these employees and for equivalent employees servicing commercial customers.*

This criterion ensures that the employees servicing the government contract will be compensated exactly as they would be if they were servicing a commercial account. Thus, the prevailing labor standards for private work would not be impacted in any way by the award of the subcontract. Furthermore, because subcontract award is not determined primarily on the basis of cost (Criterion 2), the subcontractor paying the lowest wages will not have a competitive advantage over other employers who pay average or above average wages. These subcontractors will compete for the subcontract work on the same basis that they compete for private work: quality of service and overall value.

(6) *The prime contractor determines in advance, based on the nature of the subcontract requirements and knowledge of the practices of likely offerors, that all or nearly all offerors will meet the above requirements. If the services are currently being performed under a contract or subcontract, the prime contractor shall consider the practices of the existing contractor or subcontractor in making a determination regarding the above requirements.*

This requirement is designed to ensure that all subcontractors compete on an equal basis, and eliminate the possibility that a subcontractor subject to SCA would be forced to compete against a subcontractor that would be exempt from SCA. Furthermore, as noted in the discussion of Criterion 4, this requirement, which takes into consideration not only the practices of likely offerors but also the nature of the subcontract requirements, is a necessary safeguard to prevent individual offerors from juggling staffing patterns simply in an effort to avoid SCA coverage. This criterion also serves to protect those employees (either contractor or Federal employees) who might currently be engaged in performing the solicited services on a full-time basis.

(7) The exempted subcontractor certifies in the subcontract to the provisions in paragraphs (1), and (3) through (5). The prime contractor shall review available information concerning the subcontractor and the manner in which the subcontract will be performed. If the prime contractor has reason to doubt the validity of the certification, SCA stipulations shall be included in the subcontract.

This criterion provides a mechanism for addressing and correcting situations where the exemption may have been misapplied. (It is not anticipated that the prime contractor will do a complete investigation into the application of the exemption to the subcontractor, but rather will do a review based on known information regarding the subcontractor, including information submitted in the solicitation process.) Furthermore, if the Department of Labor, in its enforcement, determines that the subcontract is not in fact exempt, it shall require that SCA stipulations be included in the subcontract. The prime contractor, who in almost all cases will have SCA stipulations included in its contract, will be ultimately responsible for compliance with the requirements of the Act. The Department may therefore require that the SCA requirements be effective as of the date of contract award. The Department notes that an exempt subcontractor is not required to keep any particular records to meet its burden of showing that the criteria are satisfied.

These criteria will be applied only to the following small group of commercial services. In order for the exemption to apply, the subcontract must meet all of the required criteria and must be for one of the specified services listed below. Subcontracts for services that are not within the scope of the services specifically listed, will not be exempt from coverage of SCA even though the subcontract meets all of the required criteria. Furthermore, subcontracts subject to section 4(c) of the SCA are not exempt.

For each of the services included on the list of services to which the exemption would apply, the type of services covered is explained. The difficulties which the FAR Council stated have been encountered in procuring the services are discussed in the NPRM.

Automatic Data Processing and Telecommunications Services

For several years the Department of Labor regulations implementing the Service Contract Act have contained an exemption for contracts principally for the maintenance, calibration and/or repair of 1) automated data processing and office information/word processing systems; 2) scientific equipment and medical apparatus or equipment of microelectronic circuitry or other technology of at least similar sophistication; and 3) office/business machines not otherwise exempt where services are performed by the

manufacturer or supplier of the equipment. In short, the current exemption applies exclusively to hardware maintenance when certain criteria are met. In addition to the expansion of the current ADP exemption to subcontracts for installation services as well as hardware maintenance, an exemption for subcontracts for software and other ADP support services is added in conjunction with the criteria listed above.

Provided the specified criteria are met, the exemption covers a broader range of automatic data processing and telecommunications services including: ADP facility operation and maintenance services provided at the contractor's facility, ADP telecommunications and transmission services, ADP teleprocessing and timesharing services, ADP systems analysis services, information and data broadcasting or data distribution services, ADP backup and security services, ADP data conversion services, computer aided design/computer aided manufacturing (CAD/CAM) services, digitizing services (including cartographic and geographic information), telecommunications network management services, automated news services, data services or other information services (e.g., buying data, the electronic equivalent of books, periodicals, newspapers, etc.) and data storage on tapes, compact disks, etc. This exemption does not apply to ADP data entry services or ADP optical scanning services.

Automobile or other vehicle (e.g., aircraft) maintenance services (other than contracts to operate a Government motor pool or similar facility).

Contractors operating automobiles or other vehicles have a need for services such as normal maintenance (e.g., changing oil and filters, rotating tires, etc.), mechanical repairs, paint and body work, glass replacement, and other repairs needed to maintain the automobile or other vehicle. Unless the contractor has its own repair shop for such work, it is subcontracted to commercial firms.

Financial services involving the issuance and servicing of cards (including credit cards, debit cards, purchase cards, smart cards, and similar card services).

Although these services are not typically required by most service contracts and therefore any subcontracts for these services would not typically be covered by the wage determination requirements of the prime contract, any subcontract for such financial services would be exempt if all the required criteria are met.

Lodging at hotels/motels and contracts with hotels/motels for conferences, including lodging and/or meals, which are part of the contract for the conference.

Prime contractors may contract with hotels/motels for meeting rooms for conferences of limited duration (e.g., one to five days). These subcontracts may be for conferences where attendance is limited to Government employees or may involve attendance by other organizations and/or the public. These subcontracts may also involve furnishing lodging and meals to those participating in the conference.

In other cases, the prime contractor establishes contractual arrangements with hotels/motels to obtain special rates for lodging when the contractor has a large number of employees that frequently travel to a particular location. The hotel/motel agrees to special reduced rates in exchange for being designated a preferred provider for the agency travelers to that city/location.

Maintenance services for all types of specialized building or facility equipment such as elevators, escalators, temperature control systems, security systems, smoke and/or heat detection equipment, etc.

Prime contractors that operate and maintain Government owned buildings often subcontract for services related to specialized equipment. Subcontracts for these services would be exempt if all of the required criteria are met.

Installation, maintenance, calibration or repair services for all types of equipment where services are obtained from the equipment manufacturer or supplier of the equipment.

Sometimes prime contractors are required to provide equipment and the prime contractors may have a need to acquire services to install, maintain, calibrate, service or repair the equipment from the manufacturer or original supplier in order to avoid compromising a warranty or because proprietary information needed to perform the work is only available from the manufacturer, an authorized representative of the manufacturer or the supplier of the equipment. These subcontracts may involve sophisticated equipment that requires access to proprietary information or requires employees involved in performing the work to have extensive training that is often only available through the manufacturer or equipment supplier. Examples of the type of equipment include automated building control systems, HVAC equipment, building security systems, and elevators or escalators.

Transportation of persons by air, motor vehicle, rail, or marine on regularly scheduled routes or via standard commercial services (not including charter services).

The General Services Administration (GSA) enters into contracts with airlines called ''City Pairs'' so that Federal employees and contract employees traveling on Government business can get discount airfares. Where contract employees travel on official business at reduced government fares, it is not considered an SCA-covered subcontract for transportation services.

Real estate services, including real property appraisal services, related to housing federal agencies or disposing of real property owned by the Federal Government.

To the extent that these services may be required, a subcontract for real estate services, including lease acquisition, real property appraisal, broker, space planning, lease re-negotiation, tax abatement, and real property disposal services, would be exempt if the required criteria are met.

Relocation services, including services of real estate brokers and appraisers, to assist federal employees or military personnel in buying and selling homes.

Subcontracts are not generally awarded for employee relocation services. To the extent that relocation services may be required, subcontracts for these services would be exempt if the required criteria are met.

IV. Executive Order 12866 and 13132; § 202 of the Unfunded Mandates Reform Act of 1995; Small Business Regulatory Enforcement Fairness Act

This final rule is being treated as a ''significant regulatory action'' within the meaning of Executive Order 12866 because of the significant impact of this rule on other agencies. Therefore, the Office of Management and Budget has reviewed the final rule. However, the Department has determined that this rule is not ''economically significant'' as defined in section 3(f)(1) of E.O. 12866, and therefore it does not require a full economic impact analysis under section 6(a)(3)(C) of the Order. Under this rule, subcontracts would not be exempt unless price is equal to or less important than the combination of other non-price or cost factors in selecting the subcontractor. Therefore it is not anticipated that the changes proposed by this rule will have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, jobs, the environment,

public health or safety, or State, local, or tribal governments or communities.

The Department has similarly concluded that this rule is not a ''major rule'' requiring approval by the Congress under the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 801 *et seq.*). It will not likely result in (1) an annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets.

For purposes of the Unfunded Mandates Reform Act of 1995, this rule does not include any federal mandate that may result in excess of $100 million in expenditures by state, local and tribal governments in the aggregate, or by the private sector. Furthermore, the requirements of the Unfunded Mandates Reform Act, 2 U.S.C. 1532, do not apply here because the rule does not include a ''Federal mandate.'' The term ''Federal mandate'' is defined to include either a ''Federal intergovernmental mandate'' or a ''Federal private sector mandate.'' 2 U.S.C. 658(6). Except in limited circumstances not applicable here, those terms do not include an enforceable duty which is ''a duty arising from participation in a voluntary program.'' 2 U.S.C. 658(7)(A). A decision by a subcontractor to bid on Federal service contracts is purely voluntary in nature, and the subcontractor's duty to meet Service Contract Act requirements arises ''from participation in a voluntary Federal program.''

The Department has also reviewed this rule in accordance with Executive Order 13132 regarding federalism, and has determined that it does not have ''federalism implications.'' The rule does not ''have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.''

V. Document Preparation

This document was prepared under the direction and control of John R. Fraser, Deputy Administrator, Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor.

List of Subjects in 29 CFR Part 4

Administrative practice and procedures, Employee benefit plans, Government contracts, Investigations, Labor, Law enforcement, Minimum wages, Penalties, Recordkeeping requirements, Reporting requirements, wages.

Accordingly, for the reasons set out in the preamble, 29 CFR Part 4 is amended as set forth below:

PART 4—LABOR STANDARDS FOR FEDERAL SERVICE CONTRACTS

1. The authority citation for Part 4 continues to read as follows:

Authority: 41 U.S.C. 351, *et seq.*, 79 Stat. 1034, as amended in 86 Stat. 789, 90 Stat. 2358: 41 U.S.C. 38 and 39; 5 U.S.C. 301; and 108 Stat. 4101(c).

2. New paragraphs (e)(2) and (3) are added to § 4.123(e), to read as follows:

§ 4.123 Administrative limitations, and exemptions.

* * * * *

(e) * * *

(2) The following exemptions shall expire no later than July 26, 2001:

(i) Subcontracts principally for the maintenance, calibration, repair, and/or installation (where the installation is not subject to the Davis-Bacon Act, as provided in § 4.116(c)(2) of this part) of information technology. The term information technology means any equipment or interconnected system or subsystem of equipment that is used in the automatic acquisition, storage, manipulation, management, movement, control, display, switching, interchange, transmission, or reception of data or information. The term information technology does not include equipment that contains imbedded information technology that is used as an integral part of the product, but the principal function of which is not the acquisition, storage, manipulation, management, movement, control, display, switching, interchange, transmission, or reception of data or information. For example, HVAC (heating, ventilation, and air conditioning) equipment such as thermostats or temperature control devices and medical equipment where information technology is integral to its operation, are not information technology.

(ii) The exemptions set forth in this paragraph (e)(2) shall apply only under the following circumstances:

(A) The items of equipment are commercial items which are used regularly for other than Government purposes, and are sold or traded by the subcontractor in substantial quantities to the general public in the course of normal business operations;

(B) The subcontract services are furnished at prices which are, or are based on, established catalog or market prices for the maintenance, calibration, repair, and/or installation of such commercial items. An ''established catalog price'' is a price included in a catalog, price list, schedule, or other form that is regularly maintained by the manufacturer or the contractor, is either published or otherwise available for inspection by customers, and states prices at which sales currently, or were last, made to a significant number of buyers constituting the general public. An ''established market price'' is a current price, established in the usual course of trade between buyers and sellers free to bargain, which can be substantiated from sources independent of the manufacturer or contractor; and

(C) The subcontractor utilizes the same compensation (wage and fringe benefits) plan for all service employees performing work under the contract as the subcontractor uses for these employees and equivalent employees servicing the same equipment of commercial customers;

(D) The subcontractor certifies in the subcontract to the provisions in this paragraph (e)(2)(ii).

(iii) Determinations of the applicability of this exemption to subcontracts shall be made by the prime contractor prior to subcontract award. In making a judgment that the exemption applies, the prime contractor shall consider all factors and make an affirmative determination that all of the above conditions have been met.

(iv) The prime contractor is responsible for compliance with the requirements of the Service Contract Act by its subcontractors, including compliance with all of the requirements of this exemption (see § 4.114(b) of this part). If the Department of Labor determines that any of the above requirements for exemption has not been met with respect to a subcontract, the exemption will be deemed inapplicable, and the prime contractor may be responsible for compliance with the Act, effective as of the date of contract award.

(3) The following exemptions shall expire no later than July 26, 2001:

(i) Subcontracts for the following services where the services under the subcontract meet all of the criteria set forth in paragraph (e)(3)(ii) and are not excluded by paragraph (e)(3)(iii):

(A) Automated data processing and telecommunications services, including ADP facility operation and maintenance services provided at the subcontractor's facility, ADP telecommunications and transmission services, ADP teleprocessing and timesharing services, ADP systems analysis services,

information and data broadcasting or data distribution services, ADP backup and security services, ADP data conversion services, computer aided design/computer aided manufacturing (CAD/CAM) services, digitizing services (including cartographic and geographic information), telecommunications network management services, automated news services, data services or other information services (e.g., buying data, the electronic equivalent of books, periodicals, newspapers, etc.) and data storage on tapes, compact disks, etc. This category does not include ADP data entry services or ADP optical scanning services;

(B) Automobile or other vehicle (e.g., aircraft) maintenance services (other than subcontracts to operate a Government motor pool or similar facility);

(C) Financial services involving the issuance and servicing of cards (including credit cards, debit cards, purchase cards, smart cards, and similar card services);

(D) Lodging at hotels/motels and contracts with hotels/motels for conferences, including lodging and/or meals, which are part of the subcontract for the conference;

(E) Maintenance services for all types of specialized building or facility equipment such as elevators, escalators, temperature control systems, security systems, smoke and/or heat detection equipment, etc;

(F) Maintenance, calibration, repair, or installation (where the installation is not subject to the Davis-Bacon Act, as provided in § 4.116(c)(2) of this part) services for all types of equipment where the services are obtained from the manufacturer or supplier of the equipment;

(G) Transportation of persons by air, motor vehicle, rail, or marine vessel on regularly scheduled routes or via standard commercial services (not including charter services);

(H) Real estate services, including real property appraisal services, related to housing federal agencies or disposing of real property owned by the Federal Government; and

(I) Relocation services, including services of real estate brokers and appraisers to assist federal employees or military personnel in buying and selling homes.

(ii) The exemption set forth in this paragraph (e)(3) shall apply to the services listed in paragraphs (e)(3)(i) of this seciton only when all of the following criteria are met:

(A) The services under the subcontract are commercial—i.e., they are offered and sold regularly to non-Governmental customers, and are provided by the subcontractor to the general public in substantial quantities in the course of normal business operations;

(B) The subcontract will be awarded on a sole source basis or the subcontractor will be selected for award on the basis of other factors in addition to price. In such cases, price must be equal to or less important than the combination of other non-price or cost factors in selecting the subcontractor.

(C) The subcontract services are furnished at prices which are, or are based on, established catalog or market prices. An established price is a price included in a catalog, price list, schedule, or other form that is regularly maintained by the subcontractor, is either published or otherwise available for inspection by customers, and states prices at which sales are currently, or were last, made to a significant number of buyers constituting the general public. An established market price is a current price, established in the usual course of trade between buyers and sellers free to bargain, which can be substantiated from sources independent of the manufacturer or subcontractor. Normally, market price information is taken from independent market reports, but market price could be established by surveying the firms in a particular industry or market;

(D) All of the service employees who will perform the services under the subcontract spend only a small portion of their time (a monthly average of less than 20 percent of the available hours on an annualized basis, or less than 20 percent of available hours during the contract period if the contract period is less than a month) servicing the government subcontract;

(E) The subcontractor utilizes the same compensation (wage and fringe benefits) plan for all service employees performing work under the subcontract as the subcontractor uses for these employees and for equivalent employees servicing commercial customers;

(F) The prime contractor determines in advance, based on the nature of the subcontract requirements and knowledge of the practices of likely offerors, that all or nearly all offerors will meet the above requirements. If the services are currently being performed under a contract or subcontract, the prime contractor shall consider the practices of the existing contractor or subcontractor in making a determination regarding the above requirements; and

(G) The exempted subcontractor certifies in the subcontract to the provisions in paragraphs (e)(3)(ii)(A) and (C) through (E) of this section. The prime contractor shall review available information concerning the subcontractor and the manner in which the subcontract will be performed. If the prime contractor has reason to doubt the validity of the certification, SCA stipulations shall be included in the subcontract.

(iii) The prime contractor is responsible for compliance with the requirements of the Service Contract Act by its subcontractors, including compliance with all of the requirements of this exemption (see § 4.114(b) of this part). If the Department of Labor determines that any of the above requirements for exemption has not been met with respect to a subcontract, the exemption will be deemed inapplicable, and the prime contractor may be responsible for compliance with the Act, effective as of the date of contract award.

(iv) The exemption set forth in this paragraph (e)(3) does not apply to solicitations and subcontracts subject to Section 4(c) of the Service Contract Act.

Signed at Washington, D.C., on this 19th day of July, 2000.

T. Michael Kerr,

Administrator, Wage and Hour Division.

[FR Doc. 00–18635 Filed 7–25–00; 8:45 am]

BILLING CODE 4510–27–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[COTP San Juan 00–065]

RIN 2115–AA97

Safety Zone Regulation for San Juan Harbor, Puerto Rico

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone within a 1500 foot radius surrounding the drill boat Apache while it is engaged in drilling or blasting operations. The drill boat will operate at the entrance to San Juan Harbor, Puerto Rico. The safety zone is necessary to protect vessels and personnel in the vicinity of the drilling and blasting operations. Entry into this zone is prohibited, unless authorized by the Captain of the Port.

DATES: This rule is effective from 7 a.m., Atlantic Standard Time, on July 11, 2000, to 11:59 p.m., Atlantic Standard Time, October 31, 2000.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander Robert Lefevers, Chief of Port Operations, Coast Guard Marine Safety Office San Juan, telephone (787) 706–2440.

ADDRESSES: Documents indicated in this preamble are available in the docket, are part of docket COTP San Juan 00–065, and are available for inspection or copying at the USCG Marine Safety Office, Rodriguez and Del Valle Building, 4th Floor, Calle San Martin, Road #2, Guaynabo, Puerto Rico, between the hours of 7:30 a.m. to 3:30 p.m., Monday through Friday, excluding federal holidays.

SUPPLEMENTARY INFORMATION:

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM. It was impracticable to attempt to publish a NPRM for this situation due to the inherent difficulties in scheduling marine dredging operations, and the temporary nature of this regulation.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register** because the operational schedule for the drilling and blasting was not finalized until a June 21, 2000 meeting between the U.S. Coast Guard, Army Corps of Engineers and Contract Drilling and Blasting.

Background and Purpose

These regulations are needed to provide for the safety of life on navigable waters from hazards associated with drilling and blasting operations that will occur at the entrance to San Juan Harbor, Puerto Rico.

The drilling and blasting operations will be conducted to the west of the San Juan Harbor bar entrance channel, between buoys number 1 and number 4, in the approximate position of 18°28.3691′ N, 066°07.6889′ W. The drilling and blasting operations will occur outside of the navigation channel.

To further ensure the safety of life, the contractor conducting the drilling and blasting operations will, 15 minutes prior to any detonation, send two small boats outside the safety zone to advise mariners of the operation.

Regulatory Evaluation

This rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not ''significant'' under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040, February 26, 1979). The Coast Guard expects the economic impact of this proposal to be so minimal that a full Regulatory Evaluation under paragraph 10(e) of the regulatory policies and procedures of DOT is unnecessary as the operation will not significantly impede navigation and commercial activity due to the low frequency of occurrence and extremely short duration.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we considered whether this rule would have a significant economic impact on a substantial number of small entities. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. The rule may affect the following entities, some of which may be small entities: the owners or operators of vessels intending to transit in a portion of San Juan Harbor from July 11, 2000 to October 31, 2000. This special local regulation will not have a significant economic impact on a substantial number of small entities because this rule will be in effect sporadically, and vessel traffic can pass safely around the regulated area.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub.L. 104–121), we want to assist small entities in understanding this rule so that they can better evaluate its effects on them and participate in the rulemaking process. If the rule would affect your small business, organization, or government jurisdiction and you have questions concerning is provisions or options for compliance, please contact the person listed under **FOR FURTHER INFORMATION CONTACT** for assistance in understanding and participating in this rulemaking. We also have a point of contact for commenting on actions by employees of the Coast Guard. Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act (44 U.S.C. 3501–3520).

Federalism

We have analyzed this rule under Executive Order 13132 and have determined that this rule does not have implications for federalism under that Order.

The Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) governs the issuance of Federal regulations that require unfunded mandates. An unfunded mandate is a regulation that requires a State, local, or tribal government or the private sector to incur direct costs without the Federal Government's having first provided the funds to pay those unfunded mandate costs. This rule will not impose an unfunded mandate.

Taking of Private Property

This rule will not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not concern an environmental risk to health or safety that may disproportionately affect children.

Environment

The Coast Guard has considered the environmental impact of this rule and concluded that under figure 2–1, paragraph 34(g) of Commandant Instruction M16475.1C, this rule is

categorically excluded from further environmental documentation because it is establishing a temporary safety zone.

List of Subjects In 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, and Safety measures, Waterways.

For the reasons discussed in the Preamble, the Coast Guard amends 33 CFR Part 165 as follows:

PART 165—REGULATED AREAS AND LIMITED NAVIGATION AREAS

1. The authority citation for Part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 49 CFR 1.46 and 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5.

2. Temporary § 165.T00–065 is added to read as follows:

§ 165.T07–065 Safety Zone; San Juan Harbor, Puerto Rico

(a) *Regulated Area.* A temporary safety zone is established within a 1500-foot radius surrounding the drill boat Apache, operating at the entrance to San Juan Harbor in the approximate position of 18°28.3691′ N, 066°07.6889′ W, when the vessel is conducting drilling or blasting.

(b) *Regulations.* (1) In accordance with the general regulations in 165.23 of this part, entry into, anchoring, mooring or transiting in this zone is prohibited unless authorized by the Coast Guard Captain of the Port.

(2) Notifications of blasting or drilling operations will be broadcast via VHF–FM radio Channel 16 beginning 2 hours prior to operations.

(c) *Dates.* These regulations become effective at 7 a.m., (ast), on July 9, 2000, and expires at 11:59 p.m., (ast), October 31, 2000.

Dated: July 6, 2000.

J. Servidio,

Commander, U.S. Coast Guard, Captain of the Port, San Juan, Puerto Rico.

[FR Doc. 00–18937 Filed 7–25–00; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD01–00–185]

RIN 2115–AA97

Safety Zone: IB 909 Barge Conducting Outfall Pipe Construction in Massachusetts Bay

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for the Cashman/Interberton IB 909 barge conducting outfall pipe construction in Massachusetts Bay. The safety zone temporarily closes all waters in Massachusetts Bay within a five hundred (500) yard radius of the IB 909 barge located at position 42°23′19.57″N, 070°46′50.12″W.

DATES: This rule is in effect from Friday, July 7, 2000 until Saturday, October 21, 2000.

ADDRESSES: Comments and Material received from the public, as well as documents as indicated in this preamble are part of docket CG D01–00–185 and are available for inspection or copying at Marine Safety Office Boston, 455 Commercial Street, Boston, MA 02109 between the hours of 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant (junior grade) David Sherry, Marine Safety Office Boston, Waterways Management Division, at (617) 223–3000.

SUPPLEMENTARY INFORMATION:

Regulatory Information

Pursuant to 5 U.S.C. 553, a notice of proposed rulemaking (NPRM) was not published for this regulation. Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for not publishing a NPRM and for making this regulation effective in less than 30 days after **Federal Register** publication. Conclusive information about this event was not provided to the Coast Guard until June 14, 2000, making it impossible to draft or publish a NPRM or a final rule 30 days in advance of its effective date. Publishing a NPRM and delaying its effective date would be contrary to the public interest since immediate action is needed to close a portion of the waterway and protect the maritime public from the hazards associated with this construction project.

Background and Purpose

This regulation establishes a safety zone on the waters of Massachusetts Bay in a five hundred (500) yard radius around the IB 909 construction barge located at position 42°23′19.57″N, 070°46′50.12″W. The safety zone is in effect from Friday, July 7, 2000 until Saturday, October 21, 2000. This safety zone prohibits entry into or movement within this portion of Massachusetts Bay and is needed to protect the maritime public from the dangers posed by this construction project.

Regulatory Evaluation

This rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040, February 26, 1979).

Due to the limited size of the safety zone, the fact that the safety zone will not restrict navigational channels, and the advance maritime advisories that will be made, the Coast Guard expects the economic impact of this rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), the Coast Guard considered whether this rule would have a significant economic impact on a substantial number of small entities. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. This rule will affect the following entities, some of which may be small entities: the owners or operators of vessels intending to transit or anchor in a portion of Massachusetts Bay in the vicinity of 42°23′19.57″N, 070°46′50.12″W from July 7, 2000 until October 21, 2000.

This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons: mariners may freely navigate around the safety zone

and the Coast Guard will issue marine radio advisories before the effective period widely available to users of the Bay.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), the Coast Guard offered to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking process.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

Federalism

The Coast Guard analyzed this rule under Executive Order 13132 and has determined that this rule does not have implications for federalism under that Order.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) governs the issuance of Federal regulations that require unfunded mandates. An unfunded mandate is a regulation that requires a State, local, or tribal government or the private sector to incur direct costs without the Federal Government's having first provided the funds to pay those costs. This rule would not impose an unfunded mandate.

Taking of Private Property

This rule would not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

The Coast Guard analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not concern an environmental risk to health or risk to safety that may disproportionately affect children.

Environment

The Coast Guard considered the environmental impact of this rule and concluded that, under figure 2–1, (34)(g), of Commandant Instruction M16475.lC, this rule is categorically excluded from further environmental documentation. A ''Categorical Exclusion Determination'' is available in the docket for inspection or copying where indicated under **ADDRESSES.**

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5; 49 CFR 1.

2. Add temporary § 165.T01–185 to read as follows:

§ 165.T01–185 Safety Zone: IB 909 Barge Outfall Pipe Construction, Massachusetts Bay, Massachusetts

(a) *Location.* The following area is a safety zone: All waters of Massachusetts Bay within a five hundred (500) yard radius of the construction barge located at position 42°23′19.57″ N, 070°46′50.12″ W.

(b) *Effective Date.* This section is effective from Friday, July 7, 2000 until Saturday, October 21, 2000.

(c) *Regulations.*

(1) In accordance with the general regulations in § 165.23 of this part, entry into or movement within this zone is prohibited unless authorized by the Captain of the Port Boston.

(2) All vessel operators shall comply with the instructions of the COTP or the designated on-scene U.S. Coast Guard patrol personnel. On-scene Coast Guard patrol personnel include commissioned, warrant, and petty officers of the Coast Guard on board Coast Guard, Coast Guard Auxiliary, local, state, and federal law enforcement vessels.

Dated: July 5, 2000.

J. R. Whitehead,

Captain, U. S. Coast Guard, Captain of the Port, Boston, Massachusetts.

[FR Doc. 00–18938 Filed 7–25–00; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD09–00–013]

Safety Zone: Navy Pier, Lake Michigan, Chicago Harbor, IL

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule; request for comments.

SUMMARY: The Coast Guard is establishing a temporary safety zone. The safety zone encompasses a portion of the Chicago Harbor. The safety zone is needed to protect vessels and spectators during fireworks shows scheduled for various dates during the summer of the year 2000.

DATES: This temporary final rule is effective at 9:15 p.m., May 28, 2000 until 10:30 p.m., August 23, 2000.

ADDRESSES: You may direct comments to the Captain of the Port, Chicago Illinois, CGD09–00–013, 215 W. 83rd Street, Chicago, Illinois 60521 or deliver them to the Coast Guard Marine Safety Office, 215 W. 83rd Street, Suite D, Burr Ridge, Illinois. The telephone number is (630) 986–2155. The Marine Safety Office, Chicago, Illinois maintains the public docket. Comments and documents as indicated in this preamble will be available for inspection or copying between 9:30 a.m. and 2 p.m. Monday through Friday, except Federal Holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant Diane J. Hauser, U.S. Coast Guard Marine Safety Office, 215 W. 83rd Street, Burr Ridge, Illinois 60521. The telephone number is (630) 986–2155.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 553, a notice of proposed rulemaking was not published for this regulation and good cause exists for making it effective less than 30 days after publication in the **Federal Register**. Publication of a notice of proposed rulemaking and delay of effective date would be contrary to the public interest because immediate

action is necessary to prevent possible loss of life, injury, or damage to property or the environment.

Although this rule is being published as a temporary final rule without prior notice, an opportunity for public comment is nevertheless desirable to ensure the rule is both reasonable and workable. Accordingly, persons wishing to comment may do so by submitting comments to the office listed in **ADDRESSES** in the preamble. Persons submitting comments should include their names and addresses, identify this rulemaking (CGD09–00–013), the specific sections of this document to which each comment applies, and give the reason for each comment. The Coast Guard will consider all comments received.

Background and Purpose

A temporary safety zone is required to ensure safety of vessels and spectators from hazards associated with fireworks. Entry into, transit through or anchoring within this safety zone is prohibited unless authorized by the Captain of the Port, Chicago or the designated Patrol Commander. The designated Patrol Commander on scene may be contacted on VHF Channel 16.

Regulatory Evaluation

This temporary rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has not been reviewed by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040, February 26, 1979). The Coast Guard expects the economic impact of this proposal to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) the Coast Guard considered whether this rule will have a significant impact on a substantial number of small businesses and not-for-profit organizations that are not dominant in their respective fields, and government jurisdictions with populations less than 50,000. For the same reasons set fourth in the above regulatory evaluations, the Coast Guard certifies under section 605 (b) of the Regulatory Flexibility Act (5 U.S.C.601 et seq.) that this temporary final rule will not have a significant economic impact on a substantial number of small entities.

Assistance for Small Entities

In accordance with section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub.L. 104–121), the Coast Guard wants to assist small entities in understanding this rule so that they can better evaluate its effectiveness and participate in the rulemaking process. If your small business or organization is affected by this rule, and you have questions concerning its provisions or options for compliance, please contact the office listed in **ADDRESSES** in this preamble.

Collection of Information

This rule contains no information collection requirements under the Paperwork Reduction Act (44 U.S.C. 3501 et seq.).

Federalism

The Coast Guard has analyzed this rule under the principles and criteria contained in Executive Order 13132 and has determined that this rule does not have federalism implications under that order.

Environment

The Coast Guard considered the environmental impact of this regulation and concluded that, under figure 2–1, paragraph (34)(g) of Commandant Instruction M16475.1C, it is categorically excluded from further environmental documentation. A ''Categorical Exclusion Determination'' is available in the docket for inspection or copying where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Vessels, Waterways.

For the reasons set out in the preamble, the Coast Guard amends 33 CFR Part 165 as follows:

PART 165—[AMENDED]

1. The authority citation for Part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; and 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5; and 49 CFR 1.46. Section 165.100 is also issued under authority of Sec. 311, Pub. L. 105–383.

2. A new temporary § 165.T09–013 is added to read as follows:

§ 165.T09–013 Safety Zone: Chicago Harbor, Chicago, Illinois.

(a) *Location.* The following area is a temporary safety zone: The waters of Lake Michigan 700 feet in diameter from Longitude 41–53′18″ N and Latitude 087–36′08″ W. An alternate position that may be used is Longitude 41–53′24″ N and Latitude 087–35′44W. When alternate position is used the water within a 700 ft diameter is also affected. Position will be determined by the Patrol Commander.

(b) *Applicable date.* This temporary final rule is applicable from 9:15 p.m. to 9:45 p.m., on May 28, 2000 and on every Wednesday from 9:15 to 9:45 and every Saturday from 10:00 to 10:30 through August 23, 2000.

(c) *Regulations.* In accordance with the general regulations in 165.23 of this part, entry into this zone is prohibited unless authorized by the Coast Guard Captain of the Port, Chicago, or the designated Patrol Commander.

(d) *Effective Date.* This rule is effective from May 28, 2000 until August 23, 2000.

Dated: July 6, 2000.

A. M. Heggers,

Captain, U.S. Coast Guard, Captain of the Port Chicago.

[FR Doc. 00–18939 Filed 7–25–00; 8:45 am]

BILLING CODE 4910–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 013–0139; FRL–6729–8]

Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision, San Joaquin Valley Unified Air Pollution Control District; South Coast Air Quality Management District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is finalizing a limited approval and limited disapproval of revisions to the California State Implementation Plan (SIP) proposed in the **Federal Register** on April 12, 1999. This final action will incorporate these rules into the federally approved SIP. The intended effect of finalizing this action is to regulate particulate matter (PM) emissions in accordance with the requirements of the Clean Air Act, as amended in 1990 (CAA or the Act). The revised rules regulate PM–10 emissions from open burning. Thus, EPA is finalizing simultaneous limited approvals and limited disapprovals under CAA provisions regarding EPA action on SIP submittals and general rulemaking authority because these

revisions, while strengthening the SIP, do not fully meet the CAA provisions regarding plan submissions and requirements for nonattainment areas. As a result of these limited disapprovals EPA will be required to impose highway funding or emission offset sanctions under the CAA unless the State submits and EPA approves corrections to the identified deficiencies within 18 months of the effective date of these disapprovals. Moreover, EPA will be required to promulgate a Federal implementation plan (FIP) unless the deficiencies are corrected within 24 months of the effective date of these disapprovals.

EFFECTIVE DATE: This action is effective on August 25, 2000.

ADDRESSES: Copies of the rules and EPA's evaluation report of the rules are available for public inspection at EPA's Region IX office during normal business hours. Copies of the submitted rules are also available for inspection at the following sites:

Rulemaking Office, (AIR–4), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105.

Environmental Protection Agency, Air Docket (6102), Ariel Rios Building, 1200 Pennsylvania Avenue, NW., Washington, DC 20460.

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 2020 ''L'' Street, Sacramento, CA 95812.

San Joaquin Valley Unified Air Pollution Control District, 1990 East Gettysburg Street, Fresno, CA 93726.

South Coast Air Quality Management District, 21865 East Copley Drive, Diamond Bar, CA 91765.

FOR FURTHER INFORMATION CONTACT: Al Petersen, Rulemaking Office, (AIR–4), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105, Telephone: (415) 744–1135.

SUPPLEMENTARY INFORMATION:

I. Applicability

The rules being approved into the California SIP include San Joaquin Valley Unified Air Pollution Control District (SJVUAPCD) Rule 4103, Open Burning (adopted on December 16, 1993), and South Coast Air Quality Management District (SCAQMD) Rule 444, Open Fires (adopted on October 2, 1987). These rules were submitted by the California Air Resources Board (CARB) to EPA on May 24, 1994 and March 23, 1988, respectively.

II. Background

On April 12, 1999 in 64 FR 17589, EPA proposed granting limited approval and limited disapproval of the following rules into the California SIP: SJVUAPCD Rule 4103, Open Burning, and SCAQMD Rule 444, Open Fires. SJVUAPCD Rule 4103 was amended on December 16, 1993, and submitted by the CARB to EPA on May 24, 1994. SCAQMD Rule 444, was amended on October 2, 1987, and submitted by the CARB to EPA on March 23, 1988. These PM–10 rules were submitted by the State of California in response to section 110(a) and Part D of the CAA for incorporation into the California SIP. A detailed discussion of the background for the above rules and the nonattainment areas are provided in the proposed rule cited above.

EPA has evaluated the above rules for consistency with the requirements of the CAA and EPA regulations, as found in section 110 and Part D of the CAA and 40 CFR part 51 (Requirements for Preparation, Adoption, and Submittal of Implementation Plans) and EPA's interpretation of these requirements as expressed in various EPA policy guidance documents referenced in the proposed rule. EPA is finalizing the limited approval of SJVUAPCD Rule 4103 and SCAQMD Rule 444 in order to strengthen the SIP and finalizing the limited disapproval requiring the correction of the remaining deficiencies.

Submitted SJVUAPCD Rule 4103 replaces twenty-five rules in the Applicable SIP for the eight counties that now comprise the SJVUAPCD. SJVUAPCD Rule 4103 regulates open burning and reduces PM–10 emissions. Although SJVUAPCD Rule 4103 strengthens the SIP by combining and unifying the rules of eight counties and by eliminating the exemption for one- and two-family dwellings to burn residential rubbish, EPA has determined that SJVUAPCD Rule 4103 does not meet the requirements of RACM and BACM by allowing exemptions for eight burning activities that could be limited to Permissive-Burn Days. Rule 4103 also does not meet the requirements of BACM for Prescribed Burning (including Agricultural Burning, Forest Management Burning, Range Improvement Burning, and Wildland Vegetation Management Burning) to require burner training, to require emission reduction techniques, to require a smoke management plan, and to require the second level of smoke dispersion evaluation during the day (the first level is the initial evaluation at the beginning of the day).

Submitted SCAQMD Rule 444 regulates open burning and reduces PM–10 emissions. On July 6, 1982, EPA approved into the SIP a version SCAQMD Rule 444, Open Fires, that had been adopted by the District on October 2, 1981. Although the submitted SCAQMD Rule 444 will strengthen the SIP by requiring an approved implementation plan for Wildland Vegetation Management Burning, EPA has determined that SCAQMD Rule 444 does not meet the requirements of RACM for Prescribed Burning, because the rule does not base approval of a burn on an evaluation of an airshed's capacity to disperse PM–10 emissions from all types of Open Burning, including Prescribed Burning, and other PM–10 sources, to encourage burner training by offering incentives, and to encourage the use of emission reduction techniques by offering incentives.

A detailed list of rules to be replaced and a discussion of rule provisions and deficiencies can be found in the Technical Support Documents for SJVUAPCD Rule 4103 and SCAQMD Rules 444 and 208, which are available from the U.S. EPA's Region IX office.

III. Response to Public Comments

A 30-day public comment period was provided in 64 FR 17589. EPA received one comment letter on the proposed rule from David L. Jones, SJVUAPCD. The comment has been evaluated by EPA and a summary of the comment and EPA's response is set forth below.

Comment: Mr. Jones commented that the California Air Resources Board (CARB) is planning to take action to revise the *Agricultural Burning Guidelines,* California Code of Regulations, Title 17, in late 1999. Changes currently being proposed to Title 17 would require that SJVUAPCD Rule 4103 be amended, which would also eliminate many of the deficiencies cited by EPA. The SJVUAPCD requests that EPA delay final rulemaking on Rule 4103 until after the CARB takes action on the proposed changes to Title 17. This would allow the SJVUAPCD time to complete the amendment of Rule 4103 in an orderly and cost saving manner.

Response: EPA delayed final rulemaking until after the California Air Resources board adopted the *Smoke Management Guidelines for Agricultural and Prescribed Burning* (SMGAPB) on March 23, 2000. EPA notes that the exemption for agricultural burning on a No-burn day, '' if denial would threaten imminent and substantial economic loss,'' is retained in the revised SMGAPB. The exemption in the revised

SMGAPB is now mitigated by limiting the amount to be burned and by allowing burning only when not likely to cause or contribute to exceedences of the NAAQS or smoke impact to smoke sensitive areas. However, EPA has determined that this exemption as now written is implemented by Director's discretion and is not enforceable nor approvable by EPA. A District planning to submit a rule containing this exemption should define clearly ''an imminent and substantial economic loss'' and should state clearly the guidelines for determining the amount of material to be burned, geographical location, and meteorological conditions that would allow such an exemption.

IV. EPA Action

EPA is finalizing a limited approval and a limited disapproval of SJVUAPCD Rule 4103 and SCAQMD Rule 444. The limited approval of these rules is being finalized under section 110(k)(3) of the CAA in light of EPA's authority pursuant to section 301(a) of the CAA to adopt regulations necessary to further air quality by strengthening the SIP. The approval is limited in the sense that the rules strengthen the SIP. However, the rules do not meet the requirements of section 110(a)(2)(A) of the CAA because of the rule deficiencies which were discussed in the proposed rule. Thus, in order to strengthen the SIP, EPA is granting limited approval of these rules under sections 110(k)(3) and 301(a) of the CAA. This action approves SJVUAPCD Rule 4103, Open Burning, and SCAQMD Rule 444, Open Fires, into the SIP as federally enforceable rules.

At the same time, EPA is finalizing a limited disapproval of SJVUAPCD Rule 4103 and SCAQMD Rule 444, because they contain deficiencies that have not been corrected by section 110(a)(2)(A) of the CAA, and, as such, the rules do not fully meet the requirements of part D of the Act. As stated in the proposed rule, upon the effective date of this final rule, the 18 month clock for sanctions and the 24 month FIP clock will begin per sections 179(a) and 110(c) of the CAA. If the State does not submit the required corrections and EPA does not approve the submittal within 18 months of the effective date of the final rule, either the highway sanction or the offset sanction will be imposed at the 18 month mark. It should be noted that the rules covered by this final rule have been adopted by SJVUAPCD and SCAQMD and are currently in effect in SJVUAPCD and SCAQMD, respectively. EPA's limited disapproval action will not prevent SJVUAPCD, SCAQMD, or EPA from enforcing these rules.

V. Administrative Requirements

A. Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order 12866, entitled ''Regulatory Planning and Review.''

B. Executive Order 13045

Executive Order 13045, entitled Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) Is determined to be ''economically significant'' as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This rule is not subject to Executive Order 13045 because it does not involve decisions intended to mitigate environmental health or safety risks.

C. Executive Order 13084

Under Executive Order 13084, Consultation and Coordination with Indian Tribal Governments, EPA may not issue a regulation that is not required by statute, that significantly affects or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments. If the mandate is unfunded, EPA must provide to OMB, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected and other representatives of Indian tribal governments ''to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities.''

Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

D. Executive Order 13132

Executive Order 13132, entitled Federalism (64 FR 43255, August 10, 1999) revokes and replaces Executive Orders 12612, Federalism and 12875, Enhancing the Intergovernmental Partnership. Executive Order 13132 requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' Under Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the proposed regulation. EPA also may not issue a regulation that has federalism implications and that preempts State law unless the Agency consults with State and local officials early in the process of developing the proposed regulation.

This rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, because it merely acts on a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. Thus, the requirements of section 6 of the Executive Order do not apply to this rule.

E. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities.

Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions.

This final rule will not have a significant impact on a substantial number of small entities because SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements but simply act on requirements that the State is already imposing. Therefore, because the Federal SIP approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities.

EPA's disapproval of the state request under section 110 and subchapter I, part D of the Clean Air Act does not affect any existing requirements applicable to small entities. Any pre-existing federal requirements remain in place after this disapproval. Federal disapproval of the state submittal does not affect state enforceability. Moreover, EPA's disapproval of the submittal does not impose any new Federal requirements. Therefore, I certify that this action will not have a significant economic impact on a substantial number of small entities.

Moreover, due to the nature of the Federal-State relationship under the Clean Air Act, preparation of flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.,* v. *U.S. EPA,* 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

F. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to private sector, of $100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action acts on pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

G. National Technology Transfer and Advancement Act

Section 12 of the National Technology Transfer and Advancement Act (NTTAA) of 1995 requires Federal agencies to evaluate existing technical standards when developing a new regulation. To comply with NTTAA, EPA must consider and use ''voluntary consensus standards'' (VCS) if available and applicable when developing programs and policies unless doing so would be inconsistent with applicable law or otherwise impractical.

EPA believes that VCS are inapplicable to today's action because it does not require the public to perform activities conducive to the use of VCS.

H. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This rule is not a ''major'' rule as defined by 5 U.S.C. 804(2).

I. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by September 25, 2000. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements.

Dated: June 14, 2000.

Laura Yoshii,

Acting Regional Administrator, Region IX.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart F—California

2. Section 52.220 is amended by adding paragraphs (c)(176)(i)(E) and (197)(i)(C)(*4*) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(176) * * *

(i) * * *

(E) South Coast Air Quality Management District.

(*1*) Rule 444, adopted on October 2, 1987.

* * * * *

(197) * * *

(i) * * *

(C) * * *

(*4*) Rule 4103, adopted on December 16, 1993.

* * * * *

[FR Doc. 00–18435 Filed 7–20–00; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[TX–125–1–7463a; FRL–6840–3]

Approval and Promulgation of Implementation Plans; Texas; Revisions to Emergency Episode Plan Regulations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The EPA is taking direct final action approving revisions to the Texas Natural Resource Conservation Commission (TNRCC) emergency episode plan regulations in the Texas State Implementation Plan (SIP). These revisions update statutory citations,

update references to the commission, and change various wording to improve readability. The EPA is approving these revisions to the Texas SIP as requested by the Governor of Texas.

DATES: This rule is effective on September 25, 2000 without further notice, unless EPA receives adverse comment by August 25, 2000. If EPA receives such comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that this rule will not take effect.

ADDRESSES: Written comments on this action should be addressed to Mr. Thomas H. Diggs, Chief, Air Planning Section (6PD–L), at the EPA Region 6 Office listed below. Copies of documents relevant to this action are available for public inspection during normal business hours at the following locations. Anyone wanting to examine these documents should make an appointment with the appropriate office at least two working days in advance.

Environmental Protection Agency, Region 6, Air Planning Section (6PD–L), 1445 Ross Avenue, Dallas, Texas 75202–2733.

Texas Natural Resource Conservation Commission, Office of Air Quality, 12124 Park 35 Circle, Austin, Texas 78753.

FOR FURTHER INFORMATION CONTACT: Bill Deese of the EPA Region 6 Air Planning Section at (214) 665–7253.

SUPPLEMENTARY INFORMATION: Throughout this document whenever ''we'' is used, we mean EPA. This document makes a reference to 40 CFR 52.2270(c)(71). 40 CFR 52.2270(c)(71) was moved to 40 CFR 52.2299(c)(71) in a **Federal Register** action published July 7, 1999 (64 FR 36586).

I. What Is EPA Approving in This Action?

We are approving Title 30, Chapter 118, of the Texas Administrative Code (30 TAC Chapter 118), Control of Air Pollution Episodes, adopted by TNRCC on February 9, 2000, effective March 5, 2000, as a revision to the Texas SIP.

Chapter 118 in the current Texas SIP was adopted by the former Texas Air Control Board (TACB) on July 17, 1987, and April 14, 1989, and approved by EPA on September 6, 1990 (55 FR 36632) at § 52.2270(c)(71). It is available for public inspection by selecting ''Texas'' and then selecting ''TX Chap 118 (Reg 8)—Control of Air Pollution Episodes'' at the following web site: http://www.epa.gov/earth1r6/6pd/air/sip/sip.htm (Must be all lower case.)

On February 27, 2000, the Governor of Texas submitted to EPA an amended Chapter 118 adopted by TNRCC on February 9, 2000. These amendments change references to sections 3.14 and 3.14(a) of the Texas Clean Air Act to section 5.514 of the Texas Water Code to reflect current codification of the same statutory content, replace references to the former TACB with ''commission'' to indicate that the commission is responsible for administering and enforcing the rules, and make acceptable editorial changes to the regulation to improve readability.

II. Final Action

The EPA is approving 30 TAC Chapter 118, Control of Air Pollution Episodes, adopted by TNRCC on February 9, 2000, effective March 5, 2000, and submitted by the Governor on February 27, 2000. Chapter 118 replaces Chapter 118 approved by EPA September 6, 1990 (55 FR 36632) in the Texas SIP.

The EPA is publishing this rule without prior proposal because we view this as a noncontroversial amendment and anticipate no adverse comments. However, in the ''Proposed Rules'' section of today's **Federal Register** publication, we are publishing a separate document that will serve as the proposal to approve the SIP revision if adverse comments are received. This rule will be effective on September 25, 2000 without further notice unless we receive adverse comment by August 25, 2000. If EPA receives adverse comments, we will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. We will address all public comments in a subsequent final rule based on the proposed rule. We will not institute a second comment period on this action. Any parties interested in commenting must do so at this time.

III. Administrative Requirements

A. Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order 12866, entitled ''Regulatory Planning and Review.''

B. Executive Order 13132

Executive 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999) revokes and replaces Executive Order 12612, ''Federalism,'' and Executive Order 12875, ''Enhancing the Intergovernmental Partnership.'' Executive Order 13132 requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.''

Under Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the proposed regulation. The EPA also may not issue a regulation that has federalism implications and that preempts State law unless the Agency consults with State and local officials early in the process of developing the proposed regulation.

This rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, because it merely approves a State rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Federal Clean Air Act (the Act). Thus, the requirements of section 6 of the Executive Order do not apply to this rule.

C. Executive Order 13045

Executive Order 13045, entitled ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), applies to any rule that: (1) Is determined to be ''economically significant'' as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

The EPA interprets Executive Order 13045 as applying only to those regulatory actions that are based on

health or safety risks, such that the analysis required under section 5–501 of the Order has the potential to influence the regulation. This final rule is not subject to Executive Order 13045 because it approves a State program.

D. Executive Order 13084

Under Executive Order 13084, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 13084 requires EPA to provide to the OMB, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation.

In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments ''to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities.''

Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. This action does not involve or impose any requirements that affect Indian tribes. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

E. Regulatory Flexibility Act

The Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions.

This final rule will not have a significant impact on a substantial number of small entities because SIP approvals under section 110 and subchapter I, part D of the Act do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities.

Moreover, due to the nature of the Federal-State relationship under the Act, preparation of a flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Act forbids EPA to base its actions concerning SIPs on such grounds. *See Union Electric Co.,* v. *U.S. EPA,* 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

F. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995, signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated annual costs to State, local, or tribal governments in the aggregate; or to private sector, of $100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

The EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated annual costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

G. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule can not take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major'' rule as defined by 5 U.S.C. 804(2). This rule will be effective September 25, 2000.

H. Petitions for Judicial Review

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by September 25, 2000.

Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. *See* section 307(b)(2).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Intergovernmental relations, Lead, Nitrogen oxides, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: July 14, 2000.

Julie Jensen,

Acting Regional Administrator, Region 6.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart SS—Texas

2. In § 52.2270(c), the first table is amended by revising the entry for ''Chapter 118 (Reg 8)—Control of Air Pollution Episodes'' to read as follows:

§ 52.2270 Identification of plan.

* * * * *

(c) * * *

EPA APPROVED REGULATIONS IN THE TEXAS SIP

State citation	Title/subject	State approval submittal date	EPA approval date	Explanation
*	*	*	*	*
Chapter 118 (Reg 8)—control of air pollution episodes				
Section 118.1	Generalized Air Pollution Episodes.	03/05/2000	July 26, 2000	
Section 118.2	Provisions Governing Generalized Episode Control.	03/05/2000	July 26, 2000	
Section 118.3	Localized Air Pollution Episodes.	03/05/2000	July 26, 2000	
Section 118.4	Hearings.	03/05/2000	July 26, 2000	
Section 118.5	Emission Reduction Plan.	03/05/2000	July 26, 2000	
Section 118.6	Texas Air Pollution Episode Contingency Plan and Emergency Management Center.	03/05/2000	July 26, 2000	
*	*	*	*	*

[FR Doc. 00–18787 Filed 7–25–00; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[PA158–4103a; FRL–6735–7]

Approval and Promulgation of Air Quality Implementation Plans; Commonwealth of Pennsylvania; Approval of Revisions to Volatile Organic Compounds Regulations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action on revisions to the Commonwealth of Pennsylvania State Implementation Plan (SIP) submitted by the Pennsylvania Department of Environmental Protection (PADEP). The revisions remove the alternate emission reduction limitations for the Minnesota Mining and Manufacturing Company (3M) located in Bristol, Pennsylvania, and make corrections to certain Pennsylvania VOC regulations to make them consistent with federal requirements. EPA is approving these revisions to the Commonwealth of Pennsylvania's SIP in accordance with the requirements of the Clean Air Act.

DATES: This rule is effective on September 25, 2000 without further notice, unless EPA receives adverse written comment by August 25, 2000. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Written comments should be mailed to David L. Arnold, Chief, Ozone & Mobile Sources Branch, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; the Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460; and Pennsylvania Department of Environmental Protection, Bureau of Air Quality, PO Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

FOR FURTHER INFORMATION CONTACT: Mrs. Kelly L. Bunker (215) 814–2177, or by e-mail at bunker.kelly@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

On March 6, 2000 the Commonwealth of Pennsylvania submitted a formal revision to its State Implementation Plan (SIP). The SIP submittal consisted of revisions to certain VOC, particulate, and sulfur dioxide (SO_2) regulations. The revisions to certain VOC regulations are the subject of this rulemaking action. The particulate and (SO_2) regulation revisions will be addressed in a separate rulemaking action.

II. Summary of SIP Revision

As part of the Commonwealth's Regulatory Basics Initiative (RBI), the Pennsylvania Department of Environmental Protection (PADEP) was tasked to review the Commonwealth's existing regulations and identify those that were more stringent than Federal requirements, were obsolete, redundant or no longer necessary. As a result of this initiative, several VOC regulations were found to be obsolete or needed to be revised to conform to Federal requirements. These SIP revisions address revisions resulting from the RBI.

These revisions remove 25 PA Code section 128.14, pertaining to the Minnesota Mining and Manufacturing Company, Bristol, Pennsylvania; add the term ''less water'' to 25 PA Code section 129.67(b)(2), Graphic Arts Systems; and add amendments to 25 PA Code section 129.56, Storage Tanks Greater than 40,000 Gallons Capacity Containing VOCs, providing a time frame for repairing or emptying of defective organic liquid storage tanks.

25 PA Code section 128.14, Minnesota Mining and Manufacturing Company (3M), Bristol, Pennsylvania, is being removed. This provision implemented alternative emission reduction limitations, also known as a ''bubble,'' for ten surface coating processes at the 3M facility. Eight (8) of the ten (10) coating processes under the bubble were decommissioned and removed in 1990; therefore, the alternative emission reduction limitations are no longer valid or necessary. The remaining two coating processes are subject to 25 PA Code section 129.52 Table I(5).

Regulations for graphic arts systems are being revised to add the term ''less water'' to 25 PA Code section 129.67(b)(2). This revision will clarify that water is not to be considered when determining the solids content of the ink. This revision complies with the EPA Control Technique Guidelines (CTG) reference document entitled, ''A Guideline for Graphic Arts Calculations,'' PEI Associates Inc., U.S. EPA Contract No. 68–02–3963, 1988.

Procedures for repairing defective floating roof seals on volatile organic storage tanks are being added to 25 PA Code section 129.56. The revisions allow the owners and operators of

volatile organic liquid storage tanks to empty the tanks and repair the defective seals within 45 days. A 30-day extension may be requested from the Commonwealth if the failure cannot be repaired within 45 days and if the tank cannot be emptied in 45 days. These revisions comply with the federal requirements found in 40 CFR 60.113b(b)(4)(iii) relating to testing and procedures for volatile organic liquid storage vessels.

EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comment since the revisions are administrative changes to the state regulations. However, in the ''Proposed Rules'' section of today's **Federal Register**, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision if adverse comments are filed. This rule will be effective on September 25, 2000 without further notice unless EPA receives adverse comment by August 25, 2000. If EPA receives adverse comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. EPA will address all public comments in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time.

III. Final Action

EPA is approving, as revisions to the Pennsylvania SIP, the removal of 25 PA Code section 128.14, pertaining to Minnesota Mining and Manufacturing Company, Bristol, Pennsylvania; the addition of the term ''less water'' to 25 PA Code section 129.67(b)(2), Graphic Arts Systems; and the addition of amendments to 25 PA Code section 129.56, Storage Tanks Greater than 40,000 Gallons Capacity Containing VOCs, which provide a time frame for the repairing or emptying of defective organic liquid storage tanks.

IV. Administrative Requirements

A. General Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. This action merely approves state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). For the same reason, this rule also does not significantly or uniquely affect the communities of tribal governments, as specified by Executive Order 13084 (63 FR 27655, May 10, 1998). This rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely approves a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings'' issued under the executive order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

B. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

C. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by September 25, 2000. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action.

This approval of revisions to Pennsylvania volatile organic compounds regulations may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements.

Dated: June 30, 2000.

Bradley M. Campbell,

Regional Administrator, Region III.

40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart NN—Pennsylvania

2. Section 52.2020 is amended by adding paragraphs (c)(147) to read as follows:

§ 52.2020 Identification of plan.

* * * * *

(c) * * *

(147) Revisions to the Pennsylvania Regulations pertaining to certain VOC regulations submitted on March 6, 2000 by the Pennsylvania Department of Environmental Protection:

(i) Incorporation by reference.

(A) Letter of March 6, 2000 from the Pennsylvania Department of Environmental Protection transmitting the revisions to VOC regulations.

(B) Addition of the term ''less water'' to 25 PA Code Chapter 129, Standard for Sources, at section 129.67(b)(2) Graphic Arts Systems; addition of paragraph (h) to 25 PA Code Chapter 129, Standard for Sources, at section 129.56, Storage Tanks Less than 40,000 Gallons Capacity Containing VOCs; and revisions to 25 PA Code Chapter 128 to remove section 128.14, pertaining to the Minnesota Mining and Manufacturing Company, Bristol, Pennsylvania. These revisions became effective on September 5, 1998.

(ii) Additional Material.—Remainder of March 6, 2000 submittal.

[FR Doc. 00–18785 Filed 7–25–00; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–301021; FRL–6596–6]

RIN 2070–AB

Fenbuconazole; Extension of Tolerances for Emergency Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation extends the time-limited tolerances for the combined residues of the fungicide fenbuconazole and its metabolites RH-9129 and RH–9130 in or on grapefruit, whole fruit at 0.5 part per million (ppm), dried grapefruit pulp at 4.0 ppm, grapefruit oil at 35 ppm, and meat and meat by-products of cattle, goats, hogs, horses, and sheep at 0.01 ppm, for an additional 1½ year period. These tolerances will expire and are revoked on December 31, 2001. This action is in response to EPA's granting of an emergency exemption under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act authorizing use of the pesticide on grapefruit. Section 408(l)(6) of the Federal Food, Drug, and Cosmetic Act requires EPA to establish a time-limited tolerance or exemption from the requirement for a tolerance for pesticide chemical residues in food that will result from the use of a pesticide under an emergency exemption granted by EPA under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act.

DATES: This regulation is effective July 26, 2000. Objections and requests for hearings, identified by docket control number OPP–301021, must be received by EPA on or before September 25, 2000.

ADDRESSES: Written objections and hearing requests may be submitted by mail, in person, or by courier. Please follow the detailed instructions for each method as provided in Unit III. of the **SUPPLEMENTARY INFORMATION.** To ensure proper receipt by EPA, your objections and hearing requests must identify docket control number OPP–301021 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Andrea Beard, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 308–9356; and e-mail address: beard.andrea@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected categories and entities may include, but are not limited to:

Categories	NAICS codes	Examples of potentially affected entities
Industry	111 112 311 32532	Crop production Animal production Food manufacturing Pesticide manufacturing

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in the table could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this action might apply to certain entities. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically.*You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select ''Laws and Regulations'' and then look up the entry for this document under the ''**Federal Register**—Environmental Documents.'' You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

2. *In person.* The Agency has established an official record for this action under docket control number OPP–301021. The official record consists of the documents specifically referenced in this action, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

II. Background and Statutory Findings

EPA issued a final rule, published in the **Federal Register** of January 29, 1999 (64 FR 4577) (FRL–6054–3), which announced that on its own initiative under section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a, as amended by the Food Quality Protection Act of 1996 (FQPA) (Public Law 104–170) it established time-limited tolerances for the combined residues of fenbuconazole and its metabolites in or on grapefruit at 0.5 ppm, dried grapefruit pulp at 4.0 ppm, grapefruit oil at 35 ppm, and meat and meat by-products of cattle, goats, hogs, horses, and sheep at 0.01 ppm, with an expiration date of June 30, 2000. EPA established the tolerances because section 408(l)(6) of the FFDCA requires EPA to establish a time-limited tolerance or exemption from the requirement for a tolerance for pesticide

chemical residues in food that will result from the use of a pesticide under an emergency exemption granted by EPA under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). Such tolerances can be established without providing notice or period for public comment.

EPA received a request to extend the use of fenbuconazole on grapefruit for this year's growing season due to the situation remaining an emergency. The pathogen which causes greasy spot has developed resistance to one of the registered alternatives, and other alternatives can cause damage to the fruit, or are less efficacious. Of the citrus crops, grapefruit is particularly susceptible to this disease. Additionally, grapefruit is grown primarily for the fresh market, which has a much lower tolerance for blemished fruits. Significant economic losses are expected without this use. After having reviewed the submission, EPA concurs that emergency conditions exist. EPA has authorized under FIFRA section 18 the use of fenbuconazole on grapefruit for control of greasy spot disease in grapefruit in Florida.

EPA assessed the potential risks presented by residues of fenbuconazole in or on grapefruit. In doing so, EPA considered the safety standard in FFDCA section 408(b)(2), and decided that the necessary tolerances under FFDCA section 408(l)(6) would be consistent with the safety standard and with FIFRA section 18. The data and other relevant material have been evaluated and discussed in the final rule of January 29, 1999 (64 FR 4577) (FRL–6054–3). Based on that data and information considered, the Agency reaffirms that extension of the time-limited tolerances will continue to meet the requirements of section 408(l)(6). Therefore, the time-limited tolerances are extended for an additional 1½ year period. EPA will publish a document in the **Federal Register** to remove the revoked tolerances from the Code of Federal Regulations (CFR). Although these tolerances will expire and are revoked on December 31, 2001, under FFDCA section 408(l)(5), residues of the pesticide not in excess of the amounts specified in the tolerances remaining in or on grapefruit and livestock commodities after that date will not be unlawful, provided the pesticide is applied in a manner that was lawful under FIFRA and the application occurred prior to the revocation of the tolerances. EPA will take action to revoke these tolerances earlier if any experience with, scientific data on, or other relevant information on this pesticide indicate that the residues are not safe.

III. Objections and Hearing Requests

Under section 408(g) of the FFDCA, as amended by the FQPA, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. The EPA procedural regulations which govern the submission of objections and requests for hearings appear in 40 CFR part 178. Although the procedures in those regulations require some modification to reflect the amendments made to the FFDCA by the FQPA of 1996, EPA will continue to use those procedures, with appropriate adjustments, until the necessary modifications can be made. The new section 408(g) provides essentially the same process for persons to ''object'' to a regulation for an exemption from the requirement of a tolerance issued by EPA under new section 408(d), as was provided in the old FFDCA sections 408 and 409. However, the period for filing objections is now 60 days, rather than 30 days.

A. What Do I Need to Do to File an Objection or Request a Hearing?

You must file your objection or request a hearing on this regulation in accordance with the instructions provided in this unit and in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket control number OPP–301000 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk on or before September 25, 2000.

1. *Filing the request.* Your objection must specify the specific provisions in the regulation that you object to, and the grounds for the objections (40 CFR 178.25). If a hearing is requested, the objections must include a statement of the factual issues(s) on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the objector (40 CFR 178.27). Information submitted in connection with an objection or hearing request may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the information that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice.

Mail your written request to: Office of the Hearing Clerk (1900), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. You may also deliver your request to the Office of the Hearing Clerk in Rm. C400, Waterside Mall, 401 M St., SW., Washington, DC 20460. The Office of the Hearing Clerk is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Office of the Hearing Clerk is (202) 260–4865.

2. *Tolerance fee payment.* If you file an objection or request a hearing, you must also pay the fee prescribed by 40 CFR 180.33(i) or request a waiver of that fee pursuant to 40 CFR 180.33(m). You must mail the fee to: EPA Headquarters Accounting Operations Branch, Office of Pesticide Programs, P.O. Box 360277M, Pittsburgh, PA 15251. Please identify the fee submission by labeling it ''Tolerance Petition Fees.''

EPA is authorized to waive any fee requirement ''when in the judgement of the Administrator such a waiver or refund is equitable and not contrary to the purpose of this subsection.'' For additional information regarding the waiver of these fees, you may contact James Tompkins by phone at (703) 305–5697, by e-mail at *tompkins.jim@epa.gov*, or by mailing a request for information to Mr. Tompkins at Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

If you would like to request a waiver of the tolerance objection fees, you must mail your request for such a waiver to: James Hollins, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

3. *Copies for the Docket.* In addition to filing an objection or hearing request with the Hearing Clerk as described in Unit III.A., you should also send a copy of your request to the PIRIB for its inclusion in the official record that is described in Unit I.B.2. Mail your copies, identified by docket control number OPP–301021, to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. In person or by courier, bring a copy to the location of the PIRIB described in Unit I.B.2. You may also send an electronic copy of your request via e-mail to: *opp-docket@epa.gov*. Please use an ASCII file format and avoid the use of special characters and any form of encryption. Copies of electronic objections and hearing requests will also be accepted on disks in WordPerfect 6.1/8.0 file format or ASCII file format. Do not

include any CBI in your electronic copy. You may also submit an electronic copy of your request at many Federal Depository Libraries.

B. When Will the Agency Grant a Request for a Hearing?

A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is a genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issues(s) in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32).

IV. Regulatory Assessment Requirements

This final rule establishes time-limited tolerances under FFDCA section 408. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4). Nor does it require any prior consultation as specified by Executive Order 13084, entitled *Consultation and Coordination with Indian Tribal Governments* (63 FR 27655, May 19, 1998); special considerations as required by Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994); or require OMB review or any Agency action under Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note). Since tolerances and exemptions that are established on the basis of a FIFRA section 18 petition under FFDCA section 408, such as the tolerances in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. In addition, the Agency has determined that this action will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999). Executive Order 13132 requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' This final rule directly regulates growers, food processors, food handlers and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4).

V. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of this final rule in the **Federal Register**. This final rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: July 10, 2000.

James Jones,

Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180–[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346(a) and 371.

§ 180.480 [Amended]

2. In § 180.480, by amending the table in paragraph (b), by revising the date under the heading ''Expiration/revocation date'', ''6/30/00'' wherever it appears to read ''12/31/01''.

[FR Doc. 00–18907 Filed 7–25–00; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–301023; FRL–6597–1]

RIN 2070–AB78

Imidacloprid; Extension of Tolerance for Emergency Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation extends time-limited tolerances for residues of the insecticide imidacloprid and its metabolites in or on citrus fruits (crop group 10) at 1.0 parts per million (ppm), dried citrus pulp at 5.0 ppm, legume vegetables (crop group 6) at 1.0 ppm, and strawberries at 0.1 ppm for an additional 2-year period. These tolerances will expire and are revoked on June 30, 2002. This action is in response to EPA's granting of emergency exemptions under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act authorizing use of the pesticide on citrus, succulent beans (part of the legume vegetables crop group), and strawberries. Section 408(l)(6) of the Federal Food, Drug, and Cosmetic Act requires EPA to establish a time-limited tolerance or exemption from the requirement for a tolerance for pesticide chemical residues in food that will result from the use of a pesticide under an emergency exemption granted by EPA under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act.

DATES: This regulation is effective July 26, 2000. Objections and requests for

hearings, identified by docket control number OPP–301023, must be received by EPA on or before September 25, 2000.

ADDRESSES: Written objections and hearing requests may be submitted by mail, in person, or by courier. Please follow the detailed instructions for each method as provided in Unit III. of the **SUPPLEMENTARY INFORMATION.** To ensure proper receipt by EPA, your objections and hearing requests must identify docket control number OPP–301023 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Andrew Ertman, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 308–9367; and e-mail address: ertman.andrew@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected categories and entities may include, but are not limited to:

Categories	NAICS codes	Examples of potentially affected entities
Industry	111 112 311 32532	Crop production Animal production Food manufacturing Pesticide manufacturing

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in the table could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this action might apply to certain entities. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select ''Laws and Regulations'' and then look up the entry for this document under the ''**Federal Register**—Environmental Documents.'' You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

2. *In person.* The Agency has established an official record for this action under docket control number OPP–301023. The official record consists of the documents specifically referenced in this action, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

II. Background and Statutory Findings

EPA issued a final rule, published in the **Federal Register** of July 9, 1997 (62 FR 36691) (FRL–5729–4), which announced that on its own initiative under section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a, as amended by the Food Quality Protection Act of 1996 (FQPA) (Public Law 104–170) it established time-limited tolerances for the residues of imidacloprid and its metabolites in or on the citrus fruits crop group at 1.0 part per million (ppm) and dried citrus pulp at 5.0 ppm, with an expiration date of December 31, 1998. These tolerances were extended on December 2, 1998 (63 FR 66438) (FRL–6037–2), for an additional 18-month period to June 30, 2000.

EPA issued a final rule, published in the **Federal Register** of January 20, 1999 (64 FR 3037) (FRL–6051–6), which announced that on its own initiative under section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a, as amended by the Food Quality Protection Act of 1996 (FQPA) (Public Law 104–170) it established time-limited tolerances for the residues of imidacloprid and its metabolites in or on legume vegetables (crop group 6) at 1.0 ppm and strawberries at 0.1 ppm, with an expiration date of June 30, 2000.

EPA established the tolerances because section 408(l)(6) of the FFDCA requires EPA to establish a time-limited tolerance or exemption from the requirement for a tolerance for pesticide chemical residues in food that will result from the use of a pesticide under an emergency exemption granted by EPA under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). Such tolerances can be established without providing notice or period for public comment.

EPA received a request to extend the use of imidacloprid on citrus for this year's growing season due to an emergency concerning the spread of Pierce's Disease to wine grapes in California. By controlling the glassy-winged sharpshooter, the vector of Pierce's Disease in citrus, the state hopes to prevent the spread of the disease to grapes.

EPA received a request to extend the use of imidacloprid on succulent beans (part of the legume vegetable crop group) for this year's growing season due to an emergency with silverleaf whitefly on succulent beans in Georgia.

EPA received a request to extend the use of imidacloprid on strawberries for this year's growing season due to the continuing emergency in California. California requested a specific exemption for use of imidacloprid on strawberries to control the silverleaf whitefly. The situation in the state of California remains an emergency as there have been no adequate alternatives made available since the initial request for this use. An emergency situation is present due to this recently introduced pest, its devastating effects on many fruit and vegetable crops, and its resistance to registered alternatives.

After having reviewed the submissions, EPA concurs that emergency conditions exist for the situations in these states. EPA has authorized under FIFRA section 18 the use of imidacloprid on citrus for control of the glassy-winged sharpshooter in California, the use of imidacloprid on succulent beans for control of silverleaf whiteflies in Georgia, and the use of imidacloprid on strawberries for control of silverleaf whiteflies in California.

EPA assessed the potential risks presented by residues of imidacloprid in or on citrus, citrus pulp, legume vegetables, and strawberries. In doing so, EPA considered the safety standard in FFDCA section 408(b)(2), and decided that the necessary tolerances under FFDCA section 408(l)(6) would be consistent with the safety standard and with FIFRA section 18. The data and

other relevant material have been evaluated and discussed in the final rules of July 9, 1997 (62 FR 36691) and January 20, 1999 (64 FR 3037). Based on that data and information considered, the Agency reaffirms that extension of the time-limited tolerances will continue to meet the requirements of section 408(l)(6). Therefore, the time-limited tolerances are extended for an additional 2-year period. EPA will publish a document in the **Federal Register** to remove the revoked tolerances from the Code of Federal Regulations (CFR). Although these tolerances will expire and are revoked on June 30, 2002, under FFDCA section 408(l)(5), residues of the pesticide not in excess of the amounts specified in the tolerances remaining in or on citrus, dried citrus pulp, legume vegetables, or strawberries after that date will not be unlawful, provided the pesticide is applied in a manner that was lawful under FIFRA, and the application occurred prior to the revocation of the tolerances. EPA will take action to revoke these tolerances earlier if any experience with, scientific data on, or other relevant information on this pesticide indicate that the residues are not safe.

III. Objections and Hearing Requests

Under section 408(g) of the FFDCA, as amended by the FQPA, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. The EPA procedural regulations which govern the submission of objections and requests for hearings appear in 40 CFR part 178. Although the procedures in those regulations require some modification to reflect the amendments made to the FFDCA by the FQPA of 1996, EPA will continue to use those procedures, with appropriate adjustments, until the necessary modifications can be made. The new section 408(g) provides essentially the same process for persons to ''object'' to a regulation for an exemption from the requirement of a tolerance issued by EPA under new section 408(d), as was provided in the old FFDCA sections 408 and 409. However, the period for filing objections is now 60 days, rather than 30 days.

A. What Do I Need to Do to File an Objection or Request a Hearing?

You must file your objection or request a hearing on this regulation in accordance with the instructions provided in this unit and in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket control number OPP–301023 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk on or before September 25, 2000.

1. *Filing the request.* Your objection must specify the specific provisions in the regulation that you object to, and the grounds for the objections (40 CFR 178.25). If a hearing is requested, the objections must include a statement of the factual issues(s) on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the objector (40 CFR 178.27). Information submitted in connection with an objection or hearing request may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the information that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice.

Mail your written request to: Office of the Hearing Clerk (1900), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. You may also deliver your request to the Office of the Hearing Clerk in Rm. C400, Waterside Mall, 401 M St., SW., Washington, DC 20460. The Office of the Hearing Clerk is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Office of the Hearing Clerk is (202) 260–4865.

2. *Tolerance fee payment.* If you file an objection or request a hearing, you must also pay the fee prescribed by 40 CFR 180.33(i) or request a waiver of that fee pursuant to 40 CFR 180.33(m). You must mail the fee to: EPA Headquarters Accounting Operations Branch, Office of Pesticide Programs, P.O. Box 360277M, Pittsburgh, PA 15251. Please identify the fee submission by labeling it ''Tolerance Petition Fees.''

EPA is authorized to waive any fee requirement ''when in the judgement of the Administrator such a waiver or refund is equitable and not contrary to the purpose of this subsection.'' For additional information regarding the waiver of these fees, you may contact James Tompkins by phone at (703) 305–5697, by e-mail at tompkins.jim@epa.gov, or by mailing a request for information to Mr. Tompkins at Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

If you would like to request a waiver of the tolerance objection fees, you must mail your request for such a waiver to: James Hollins, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

3. *Copies for the Docket.* In addition to filing an objection or hearing request with the Hearing Clerk as described in Unit III.A., you should also send a copy of your request to the PIRIB for its inclusion in the official record that is described in Unit I.B.2. Mail your copies, identified by docket control number OPP–301023, to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. In person or by courier, bring a copy to the location of the PIRIB described in Unit I.B.2. You may also send an electronic copy of your request via e-mail to: opp-docket@epa.gov. Please use an ASCII file format and avoid the use of special characters and any form of encryption. Copies of electronic objections and hearing requests will also be accepted on disks in WordPerfect 6.1/8.0 file format or ASCII file format. Do not include any CBI in your electronic copy. You may also submit an electronic copy of your request at many Federal Depository Libraries.

B. When Will the Agency Grant a Request for a Hearing?

A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is a genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issues(s) in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32).

IV. Regulatory Assessment Requirements

This final rule establishes time-limited tolerances under FFDCA section 408. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501, *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates

Reform Act of 1995 (UMRA) (Public Law 104–4). Nor does it require any prior consultation as specified by Executive Order 13084, entitled *Consultation and Coordination with Indian Tribal Governments* (63 FR 27655, May 19, 1998); special considerations as required by Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low- Income Populations* (59 FR 7629, February 16, 1994); or require OMB review or any Agency action under Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note). Since tolerances and exemptions that are established on the basis of a FIFRA section 18 petition under FFDCA section 408, such as the tolerances in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. In addition, the Agency has determined that this action will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999). Executive Order 13132 requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' This final rule directly regulates growers, food processors, food handlers and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4).

V. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of this final rule in the **Federal Register**. This final rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: July 12, 2000.

James Jones,

Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346(a) and 371.

§ 180.472 [Amended]

2. In § 180.472, amend the table in paragraph (b), by revising the expiration/revocation date for the following commodities: ''Citrus fruits crop group,'' ''Dried citrus pulp,'' ''Legume vegetables'' and ''Strawberry'' from ''6/30/00'' to read ''6/30/02''.

[FR Doc. 00–18908 Filed 7–25–00; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[FRL–6840–7]

Indiana: Final Authorization of State Hazardous Waste Management Program Revision.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Immediate final rule.

SUMMARY: Indiana has applied to EPA for Final authorization of the changes to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). EPA has determined that these changes satisfy all requirements needed to qualify for Final authorization, and is authorizing the State's changes through this immediate final action. EPA is publishing this rule to authorize the changes without a prior proposal because we believe this action is not controversial and do not expect comments that oppose it. Unless we get written comments which oppose this authorization during the comment period, the decision to authorize Indiana's changes to their hazardous waste program will take effect as provided below. If we get comments that oppose this action, we will publish a document in the **Federal Register** withdrawing this rule before it takes effect and a separate document in the proposed rules section of this **Federal Register** will serve as a proposal to authorize the changes.

DATES: This Final authorization will become effective on October 24, 2000 unless EPA receives adverse written comment by August 25, 2000. If EPA receives such comment, it will publish a timely withdrawal of this immediate final rule in the **Federal Register** and inform the public that this authorization will not take effect.

ADDRESSES: Send written comments referring to Docket Number Indiana ARA 17, to Gary Westefer, Indiana Regulatory Specialist, U.S. EPA Region 5, DM–7J, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–7450. We must receive your comments by August 25, 2000.

You can view and copy Indiana's application from 9 am to 4 pm at the following addresses: EPA Region 5: contact Gary Westefer at the above address; and Indiana Department of Environmental Management, 100 North Senate, Indianapolis, Indiana 46206; Contact: Lynn West, (317) 232–3593.

FOR FURTHER INFORMATION CONTACT: Gary Westefer, Indiana Regulatory Specialist, U.S. EPA Region 5, DM–7J, 77 West Jackson Boulevard, Chicago, Illinois 60604; (312) 886–7450.

SUPPLEMENTARY INFORMATION:

A. Why Are Revisions to State Programs Necessary?

States which have received final authorization from EPA under RCRA section 3006(b), 42 U.S.C. 6926(b), must maintain a hazardous waste program that is equivalent to, consistent with, and no less stringent than the Federal program. As the Federal program

changes, States must change their programs and ask EPA to authorize the changes. Changes to State programs may be necessary when Federal or State statutory or regulatory authority is modified or when certain other changes occur. Most commonly, States must change their programs because of changes to EPA's regulations in 40 Code of Federal Regulations (CFR) parts 124, 260 through 266, 268, 270, 273 and 279.

B. What Decisions Have We Made in This Rule?

We conclude that Indiana's application to revise its authorized program meets all of the statutory and regulatory requirements established by RCRA. Therefore, we grant Indiana Final authorization to operate its hazardous waste program with the changes described in the authorization application. Indiana has responsibility for permitting Treatment, Storage, and Disposal Facilities (TSDFs) within its borders and for carrying out the aspects of the RCRA program described in its revised program application, subject to the limitations of the Hazardous and Solid Waste Amendments of 1984 (HSWA). New federal requirements and prohibitions imposed by Federal regulations that EPA promulgates under the authority of HSWA take effect in authorized States before they are authorized for the requirements. Thus, EPA will implement those requirements and prohibitions in Indiana, including issuing permits, until the State is granted authorization to do so.

C. What Is the Effect of Today's Authorization Decision?

The effect of this decision is that a facility in Indiana subject to RCRA will now have to comply with the authorized State requirements instead of the equivalent federal requirements in order to comply with RCRA. Indiana has enforcement responsibilities under its state hazardous waste program for violations of such program, but EPA retains its authority under RCRA sections 3007, 3008, 3013, and 7003, which include, among others, authority to:

- Do inspections, and require monitoring, tests, analyses or reports;
- Enforce RCRA requirements and suspend or revoke permits; and
- Take enforcement actions regardless of whether the State has taken its own actions.

This action does not impose additional requirements on the regulated community because the regulations for which Indiana is being authorized by today's action are already effective, and are not changed by today's action.

D. Why Wasn't There a Proposed Rule Before Today's Rule?

EPA did not publish a proposal before today's rule because we view this as a routine program change and do not expect comments that oppose this approval. We are providing an opportunity for public comment now. In addition to this rule, in the proposed rules section of today's **Federal Register** we are publishing a separate document that proposes to authorize the state program changes.

E. What Happens if EPA Receives Comments That Oppose This Action?

If EPA receives appropriate comments that oppose this authorization, we will withdraw this rule by publishing a document in the **Federal Register** before the rule becomes effective. EPA will base any further decision on the authorization of the state program changes on the proposal mentioned in the previous paragraph. We will then address all public comments in a later final rule. You may not have another opportunity to comment. If you want to comment on this authorization, you must do so at this time.

If we receive comments that oppose only the authorization of a particular change to the State hazardous waste program, we will withdraw that part of this rule but the authorization of the program changes that the comments do not oppose will become effective on the date specified above. The **Federal Register** withdrawal document will specify which part of the authorization will become effective, and which part is being withdrawn.

F. What Has Indiana Previously Been Authorized for?

Indiana initially received Final authorization on January 31, 1986, effective January 31, 1986 (51 FR 3955) to implement the RCRA hazardous waste management program. We granted authorization for changes to their program on October 31, 1986, effective December 31, 1986 (51 FR 39752); January 5, 1988, effective January 19, 1988 (53 FR 128); July 13, 1989, effective September 11, 1989 (54 FR 29557); July 23, 1991, effective September 23, 1991 (56 FR 33717); July 24, 1991, effective September 23, 1991 (56 FR 33866); July 29, 1991, effective September 27, 1991 (56 FR 35831); July 30, 1991, effective September 30, 1991 (56 FR 36010); August 20, 1996, effective October 21, 1996 (61 FR 43018); and September 1, 1999, effective November 30, 1999 (64 FR 47692).

G. What Changes Are We Authorizing With Today's Action?

On February 24, 2000, Indiana submitted a final complete program revision application, seeking authorization of their changes in accordance with 40 CFR 271.21. We now make an immediate final decision, subject to receipt of written comments that oppose this action, that Indiana's hazardous waste program revision satisfies all of the requirements necessary to qualify for Final authorization. Therefore, we grant Indiana Final authorization for the following program changes:

Description of Federal requirement (include checklist #, if relevant)	*Federal Register* date and page (and/or RCRA statutory authority)	Analogous State authority
Sharing of Information with the Agency for Toxic Substances and Disease Registry—Checklist SI.	November 8, 1984 SWDA 3019(b)	IC 5–14–3 Effective April 15, 1987.
HSWA Codification Rule; Delisting—Checklist 17 B ... as amended—Checklist 17B.1	July 15, 1985, 50 FR 28702 ..... June 27, 1989, 54 FR 27114	329 IAC 3.1–5–3, Effective April 18, 1998.
Hazardous Waste Management Systems; Identification and Listing of Hazardous Waste; Recycled Used Oil Management Standards Checklist 112.	September 10, 1992, 57 FR 41566.	329 IAC 3.1–4–1; 3.1–4–1(b); 3.1–6–1; 3.1–6–2(4); 3.1–11–1; 13–1–1; 13–1–2; 13–2; 13–3–1; 13–3–2; 13–3–3; 13–4–1; 13–4–2; 13–4–3; 13–4–4; 13–4–5; 13–5–1; 13–5–2; 13–5–3; 13–6–1; 13–6–2; 13–6–3; 13–6–4; 13–6–5; 13–6–6; 13–6–7; 13–6–8; 13–7–1; 13–7–2; 13–7–3; 13–7–4; 13–7–5; 13–7–6; 13–7–7; 13–7–8; 13–7–9; 13–7–10; 13–8–1; 13–8–2; 13–8–3; 13–8–4; 13–8–5; 13–8–6; 13–8–7; 13–8–8; 13–9–1; 13–9–2; 13–9–3; 13–9–4; 13–9–5; 13–9–6; 13–10–1; 13–10–2; 13–10–3, Effective March 5, 1997.

Description of Federal requirement (include checklist #, if relevant)	*Federal Register* date and page (and/or RCRA statutory authority)	Analogous State authority
Recycled Used Oil Management Standards; Technical Amendments and Corrections I—Checklist 122.	May 3, 1993, 58 FR 26420	329 IAC 3.1–6–1; 3.1–9–1; 3.1–9–2(1), (2); 3.1–10–1; 3.1–10–2 (1), (2), (3), (4); 13–1–1; 13–1–2; 13–2; 13–3–1; 13–3–2; 13–3–3; 13–4–2; 13–4–3; 13–4–4; 13–6–1; 13–6–3; 13–6–4; 13–6–6; 13–7–2; 13–7–3; 13–7–5; 13–8–1; 13–8–3; 13–8–5; 13–9–1; 13–9–3; 13–9–4, Effective March 5, 1997.
as amended Checklist 122.1	June 17, 1993, 58 FR 33341	
Identification and Listing of Hazardous Waste; Recycled Used Oil Management Standards (Technical Amendments and Corrections II) Checklist 130.	March 4, 1994, 59 FR 10550	329 IAC 13–1–1; 13–1–2; 13–2; 13–3–1; 13–4–1; 13–6–2; 13–6–5; 13–6–7; 13–7–4; 13–8–4, Effective March 5, 1997.
RCRA Expanded Public Participation—Checklist 148	December 11, 1995, 60 FR 63417	329 IAC 3.1–13–1; 3.1–13–2(8), (9); 3.1–13–18; 3.1–13–19; 3.1–13–20, Effective February 8, 1997.
Land Disposal Restrictions Phase III—Decharacterized Wastewaters, Carbamate Wastes, and Spent Potliners; Final Rule—Checklist 151.	April 8, 1996, 61 FR 15566	329 IAC 3.1–12–1; 3.1–12–2 (1 through 9), Effective February 8, 1997.
as amended—Checklist 151.1	April 8, 1996, 61 FR 15660	Effective February 8, 1997.
as amended—Checklist 151.2	April 30, 1996, 61 FR 19117	Effective April 18, 1998.
as amended—Checklist 151.3	June 28, 1996, 61 FR 33680	Effective November 30, 1997.
as amended—Checklist 151.4	July 10, 1996, 61 FR 36419	Effective November 30, 1997.
as amended—Checklist 151.5	August 26, 1996, 61 FR 43924	Effective April 18, 1998.
as amended—Checklist 151.6	February 19, 1997, 62 FR 7502 ...	Effective April 18, 1998.
Hazardous Waste Treatment, Storage, and Disposal Facilities and Hazardous Waste Generators; Organic Air Emissions Standards for Tanks, Surface Impoundments, and Containers; Final Rule—Checklist 154.	November 25, 1996, 61 FR 59931	329 IAC 3.1–1–7; 3.1–6–1; 3.1–6–2(4); 3.1–7–1; 3.1–9–1; 3.1–10–1; 3.1–10–2 (1 through 4); 3.1–13–1; 3.1–13–2(8), (9), Effective April 18, 1998.
as amended—Checklist 154.1	December 6, 1994, 59 FR 62896	
as amended—Checklist 154.2	May 19, 1995, 60 FR 26828	
as amended—Checklist 154.3	September 29, 1995, 60 FR 50426.	
as amended—Checklist 154.4	November 13, 1995, 60 FR 56952	
as amended—Checklist 154.5	February 9, 1996, 61 FR 4903	
as amended—Checklist 154.6	June 5, 1996, 61 FR 28508	
Military Munitions Rule: Hazardous Waste Identification and Management; Explosives Emergencies; Manifest Exemption for Transportation of Hazardous Waste on Rights-of-Way on Contiguous Properties—Checklist 156.	February 12, 1997, 62 FR 6622 ...	329 IAC 3.1–4–1; 3.1–4–1(b); 3.1–6–1; 3.1–6–2(1), (2); 3.1–7–1; 3.1–7–2(1); 3.1–7–3; 3.1–8–1; 3.1–8–2(1); 3.1–9–1; 3.1–9–2(1), (2); 3.1–10–1; 3.1–10–2(1), (2), (3), (4); 3.1–11–1; 3.1–13–1; 3.1–13–2(1), (2), (3), (4); 3.1–13–3 through 3.1–13–17, Effective April 18, 1998.
Land Disposal Restrictions Phase IV: Treatment Standards for Wood Preserving Wastes, Paperwork Reduction and Streamlining, Exemptions from RCRA for Certain Processed Materials; and Miscellaneous Hazardous Waste Provisions—Checklist 157.	May 12, 1997, 62 FR 25998	329 IAC 3.1–6–1; 3.1–6–2(1), (2), (13), (14); 3.1–12–1; 3.1–12–2 (1 through 5), (8), (10), Effective April 18, 1998.

H. Where Are the Revised State Rules Different From the Federal Rules?

There are no State requirements in this program revision considered to be either more stringent or broader in scope than the Federal requirements.

I. Who Handles Permits After the Authorization Takes Effect?

Indiana will issue permits for all the provisions for which it is authorized and will administer the permits it issues. EPA will continue to administer any RCRA hazardous waste permits or portions of permits which we issued prior to the effective date of this authorization until they expire or are terminated. We will not issue any more new permits or new portions of permits for the provisions listed in the table above after the effective date of this authorization. EPA will continue to implement and issue permits for HSWA requirements for which Indiana is not yet authorized.

J. What Is Codification and Is EPA Codifying Indiana's Hazardous Waste Program as Authorized in This Rule?

Codification is the process of placing the State's statutes and regulations that comprise the State's authorized hazardous waste program into the Code of Federal Regulations. We do this by referencing the authorized State rules in 40 CFR part 272. The authorized Indiana RCRA program was incorporated by reference into 40 CFR part 272 on August 23, 1989, effective October 23, 1989 (54 FR 34988).

We reserve the amendment of 40 CFR part 272, subpart P for this authorization of Indiana's program changes until a later date.

K. Regulatory Analysis and Notices

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures to State, local, and tribal governments, in the aggregate,

or to the private sector, of $100 million or more in any one year.

Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted.

Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

EPA has determined that section 202 and 205 requirements do not apply to today's action because this rule does not contain a Federal mandate that may result in annual expenditures of $100 million or more for State, local, and/or tribal governments in the aggregate, or the private sector. Costs to State, local and/or tribal governments already exist under the Indiana program, and today's action does not impose any additional obligations on regulated entities. In fact, EPA's approval of State programs generally may reduce, not increase, compliance costs for the private sector. Further, as it applies to the State, this action does not impose a Federal intergovernmental mandate because UMRA does not include duties arising from participation in a voluntary federal program.

The requirements of section 203 of UMRA also do not apply to today's action because this rule contains no regulatory requirements that might significantly or uniquely affect small governments. Although small governments may be hazardous waste generators, transporters, or own and/or operate TSDFs, they are already subject to the regulatory requirements under the existing State laws that are being authorized by EPA, and, thus, are not subject to any additional significant or unique requirements by virtue of this program approval.

Certification Under the Regulatory Flexibility Act (RFA), as Amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 et seq.

The RFA generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

For purposes of assessing the impacts of today's action on small entities, small entity is defined as: (1) A small business as specified in the Small Business Administration regulations; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of this authorization on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. This action does not impose any new requirements on small entities because small entities that are hazardous waste generators, transporters, or that own and/or operate TSDFs are already subject to the regulatory requirements under the State laws which EPA is now authorizing. This action merely authorizes for the purpose of RCRA section 3006 those existing State requirements.

Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the United States prior to publication of the rule in today's **Federal Register**. This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

Compliance With Executive Order 12866

The Office of Management and Budget has exempted this rule from the requirements of Executive Order 12866 (Regulatory Planning and Review).

Compliance With Executive Order 13132 (Federalism)

Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.''

Under section 6 of Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the proposed regulation. EPA also may not issue a regulation that has federalism implications and that preempts State law unless the Agency consults with State and local officials early in the process of developing the proposed regulation.

This authorization does not have federalism implications. It will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, because this rule affects only one State. This action simply approves Indiana's proposal to be authorized for updated requirements of the hazardous waste program that the State has voluntarily chosen to operate. Further, as a result of this action, newly authorized provisions of the State's program now apply in Indiana in lieu of the equivalent Federal program provisions implemented by EPA under HSWA. Affected parties are subject only to those authorized State program provisions, as opposed to being subject

to both Federal and State regulatory requirements. Thus, the requirements of section 6 of the Executive Order do not apply.

Compliance With Executive Order 13045

Executive Order 13045, ''Protection of Children from Environmental Health Risks and Safety Risks,'' applies to any rule that: (1) The Office of Management and Budget determines is ''economically significant'' as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

EPA interprets Executive Order 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5–501 of the Order has the potential to influence the regulation. This rule is not subject to Executive Order 13045 because it authorizes a State program.

Compliance With Executive Order 13084

Under Executive Order 13084, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or EPA consults with those governments. If EPA complies with consulting, Executive Order 13084 requires EPA to provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation.

In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments ''to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities.''

This rule is not subject to Executive Order 13084 because it does not significantly or uniquely affect the communities of Indian tribal governments. Indiana is not authorized to implement the RCRA hazardous waste program in Indian country. This action has no effect on the hazardous waste program that EPA may implement in the Indian country within the State.

Paperwork Reduction Act

Under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, Federal agencies must consider the paperwork burden imposed by any information request contained in a proposed rule or a final rule. This rule will not impose any information requirements upon the regulated community.

National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (''NTTAA''), Public Law 104–113, 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.,* materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

This action does not involve technical standards. Therefore, EPA did not consider the use of any voluntary consensus standards.

List of Subjects in 40 CFR Part 271

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous waste, Hazardous waste transportation, Indian lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements.

Authority: This action is issued under the authority of sections 2002(a), 3006 and 7004(b) of the Solid Waste Disposal Act as amended 42 U.S.C. 6912(a), 6926, 6974(b).

Dated: June 23, 2000.

Francis X. Lyons,

Regional Administrator, Region 5.

[FR Doc. 00–18789 Filed 7–25–00; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 64

[CC Docket No. 98–170; FCC 00–111]

Truth-in-Billing and Billing Format

AGENCY: Federal Communications Commission.

ACTION: Final rule; correction.

SUMMARY: On July 13, 2000 (65 FR 43251), the Commission published a document summarizing its order on reconsideration in the Truth-in Billing and Billing Format proceeding. In the order, the Commission granted, in part, petitions for reconsideration of the requirements that telephone bills highlight new service providers and prominently display inquiry contact numbers, denied all other petitions seeking reconsideration, and provided clarification of certain other issues. This document corrects paragraph 14 of the supplementary information contained in that summary.

DATES: Effective July 26, 2000.

FOR FURTHER INFORMATION CONTACT: Michele Walters, Associate Division Chief, Accounting Policy Division, Common Carrier Bureau (202) 418–7400.

SUPPLEMENTARY INFORMATION: A summary of this order was published in the **Federal Register**, FR Doc. 00–17719, 65 FR 43251, July 13, 2000. This document corrects the supplementary information contained in that summary by revising paragraph 14. In the supplementary information, page 43253, in the third column, ''paragraph 14'' is corrected to read:

''The majority of our existing truth-in-billing rules took effect on November 12, 1999. Certain carriers who met specific conditions were allowed to delay compliance with some of these requirements until April 1, 2000. In addition, certain other existing truth-in-billing rules are scheduled to take effect on April 1, 2000. Thus, absent action on our part, carriers would be bound by the existing rules as of April 1, despite the fact that today we amend certain aspects of those rules to become effective upon OMB approval. In view of these circumstances, we stay the portions of the existing § 64.2401 detailed below for which compliance was required as of April 1, 2000 until such time as today's amendments of § 64.2401 become effective. The portions of the existing § 64.2401 that are subject to this stay are: (1) That portion of § 64.2401(a)(2) that requires that each carrier's ''telephone bill must provide clear and

conspicuous notification of any change in service provider, including notification to the customer that a new provider has begun providing service,'' (2) § 64.2401(a)(2)(ii) and (3) § 64.2401(d). The existing provisions of §§ 64.2401(a)(1), (a)(2)(i) and the portion of (a)(2) requiring ''[w]here charges for two or more carriers appear on the same telephone bill, the charges must be separated by service provider,'' will continue to take effect on April 1, 2000. Nothing in this order modifies the effective dates of existing §§ 64.2401(b) and (c). Upon their effective date, the rules, as amended, will supercede the existing rules. We take this action because we find that requiring carriers to comply with the existing rules for a short time prior to the effective date of today's amendments would be unduly burdensome and that it could result in the very sort of consumer confusion that today's amendments seek to avoid.''

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 00–18883 Filed 7–25–00; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 991228352–0182–03; I.D. 121099C, 011100D]

RIN 0648–AM83

Fisheries of the Exclusive Economic Zone Off Alaska; Emergency Interim Rules To Implement the American Fisheries Act; Extension of Expiration Dates; Correction

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Extension and revision of emergency interim rules; revision to 2000 final harvest specifications; correction.

SUMMARY: This document contains a correction to the emergency interim rules implementing the American Fisheries Act (AFA) for the 2000 fishing year that was published in the **Federal Register** on June 23, 2000.

DATES: This correction is effective July 26, 2000.

FOR FURTHER INFORMATION CONTACT: Kent Lind, 907–586–7228 or kent.lind@noaa.gov.

SUPPLEMENTARY INFORMATION: NMFS published an extension and revision of emergency interim rules in the **Federal Register** on June 23, 2000 (65 FR 39107). Emergency interim rules, published on January 5, 2000, and January 28, 2000, were extended through December 24, 2000, and January 16, 2001, respectively. These actions included collection-of-information requirements subject to the Paperwork Reduction Act (PRA); however, PRA statements were inadvertently omitted.

Correction

In the final rule Emergency Interim Rules to Implement the American Fisheries Act; Extension of Expiration Dates published in 65 FR 39107, June 23, 2000, FR Doc. 00–15857, on page 39110, add to the Classification section in column 2 following the paragraph beginning ''Because prior notice and opportunity for public comment * * *'' the following two paragraphs to read as follows:

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB control number.

This rule extends collection-of-information requirements subject to the PRA. These requirements have been approved by OMB under control number 0648–0393. Public reporting burden for these collections of information is estimated to average 2 hours per permit application for a mothership, inshore processor, inshore cooperative, or catcher vessel permit; and 30 minutes for a replacement vessel permit application. These estimates include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding these burden estimates, or any other aspect of these data collections, including suggestions for reducing the burden, to NMFS (see **ADDRESSES**) and to OMB at the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC, 20503 (Attention: NOAA Desk Officer).

Dated: July 19, 2000.

Andrew A. Rosenberg,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 00–18772 Filed 7–25–00; 8:45 am]

BILLING CODE 3510–22–F

Proposed Rules

Federal Register
Vol. 65, No. 144
Wednesday, July 26, 2000

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

FARM CREDIT ADMINISTRATION

12 CFR Parts 614 and 619

RIN 3052–AB93

Loan Policies and Operations; Definitions; Loan Purchases and Sales

AGENCY: Farm Credit Administration (FCA).

ACTION: Proposed rule.

SUMMARY: We propose revisions to our regulations on loan participations to allow Farm Credit System (System or FCS) institutions greater flexibility to buy loan participations from non-System lenders under certain conditions. We propose to remove the existing 10-percent retention requirement when loan servicing remains with a non-System seller. We also propose removing two restrictive definitions of ''loan participation'' in order to enable System institutions to use their full statutory authority for loan participations. Also, we are proposing technical and clarifying changes related to System institutions' participation authorities.

DATES: You may send us comments by September 25, 2000.

ADDRESSES: Send us your comments by electronic mail to ''reg-comm@fca.gov'' or through the Pending Regulations section of our Web site at *''www.fca.gov.''* You may also send written comments to Patricia W. DiMuzio, Director, Regulation and Policy Division, Office of Policy and Analysis, Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102–5090, or by facsimile transmission to (703) 734–5784. You may review copies of all comments we receive in the Office of Policy and Analysis, Farm Credit Administration.

FOR FURTHER INFORMATION CONTACT:
Dennis K. Carpenter, Senior Policy Analyst, Office of Policy and Analysis, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4498, TDD (703) 883–4444,
or
James M. Morris, Senior Counsel, Office of General Counsel, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4020, TDD (703) 883–4444.

SUPPLEMENTARY INFORMATION:

I. Objective

The objective of this proposed rule is to increase the availability and efficiency of providing agricultural credit by providing greater flexibility for System institutions to engage in loan participations with other System institutions and non-System lenders. We expect that the proposed rule will promote more cooperative alliances and business ventures with commercial banks and other lenders.

This proposed rule is part of our efforts to carry out the Board's Philosophy Statement of July 14, 1998. Added regulatory flexibility should increase the efficient flow of funds to agriculture and rural America while helping ensure the continued availability of adequate and competitive agricultural credit. The proposed changes should also contribute to diversification of the portfolios of individual System institutions and non-System lenders, enabling them to better withstand stress conditions in agriculture.

II. Summary

The proposed rule would enable FCS institutions to use existing statutory authorities to support rural America through loan participation agreements with System and non-System lenders. The Farm Credit Act of 1971, as amended (Act) does not define the terms ''participate'' or ''participation,'' other than in a special definition contained in section 3.1(11)(B)(iv) of the Act. We have broad authority to define terms used in the Act, and used our authority to provide a general regulatory definition of the term ''loan participation'' in present §§ 614.4325(a)(4) and 619.9195. However, the two regulatory definitions contained in §§ 614.4325(a)(4) and 619.9195 are more restrictive than the Act requires. The proposed rule would remove these restrictive definitions and enable System institutions to use their full statutory authority for loan participations with System and non-System lenders.

Other Federal bank regulators have, over the past several years, effectively defined loan participations to include 100-percent interests in loans. In addition, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Office of the Comptroller of the Currency (OCC), and the Office of Thrift Supervision adopted an interagency statement providing guidance for 100-percent participations.[1] We propose removing our restrictive definitions to ensure that System institutions have the flexibility to interpret their loan participation authorities in the context of current banking practices. Therefore, we propose removing the existing regulatory definitions of ''loan participation'' contained in parts 614 and 619. We do not propose any change in the regulatory definition of ''participate'' and ''participation'' in § 613.3300(a), which reflects the definition contained in section 3.1(11)(B)(iv) of the Act, pertaining to the ''similar entity'' participation authorities.

In addition, we propose removing a 10-percent retention requirement that applies to System institutions buying participations from non-FCS institutions when the seller keeps the servicing rights of the loans. Finally, we propose clarifying the authorities for participation agreements between the Federal Agricultural Mortgage Corporation (Farmer Mac) and other FCS institutions or other lenders.

III. Revised Definitions of Participations

The Act does not provide a specific definition of a loan participation other than that contained in section 3.1(11)(B)(iv), concerning ''similar entity'' participations. Nevertheless, we previously provided more narrow regulatory definitions than required by the statute.

Our prior view was that a loan participation had to be a ''fractional'' undivided interest, something less than 100 percent.[2] On review of the statutory provisions on participations, we have concluded that the Act does not require this result. Section 1.5 of the Act

[1] ''Interagency Statement on Sales of 10% Loan Participations'' (April 10, 1997).

[2] We expressed this position in the preamble of the proposed Lending Authorities regulations of January 1991 (56 FR 2452, Jan. 23, 1991).

provides that Farm Credit Banks, ''subject to regulation by the Farm Credit Administration, shall have power to . . . make, participate in, and discount loans'' and may ''participate with'' other financial institutions in loans authorized under the Act. There are no limitations on the percentage of a loan in which a bank may participate. Similarly, sections 2.2 and 3.1 of the Act provide, respectively, that a production credit association ''may make and participate in loans'' and a bank for cooperatives may ''participate in loans,'' subject to regulation by the FCA. Nowhere does the Act provide that a participation interest must be less than 100 percent.

Therefore, we are proposing to remove the regulatory definitions of loan participation in §§ 614.4325(a)(4) and 619.9195 to provide more flexibility to System institutions to make better use of existing statutory participation authorities. With this proposed rule we recognize the banking industry's understanding of loan participations as including all or some portion of a loan.

In 1984 the OCC issued a banking circular [3] that provides that loan participations can include 100 percent of a loan. The OCC issued its banking circular to address safety and soundness concerns associated with loan purchases and participations. In the circular, the OCC described a loan participation as an arrangement in which a bank makes a loan to a borrower and then sells all or a portion of that loan to a purchasing bank. The circular distinguished a participation from a multi-bank loan transaction (syndicated loan).

The other Federal banking regulators issued an interagency statement on sales of 100-percent participations on April 10, 1997. The interagency statement discussed the features of 100-percent loan participations in light of a 1992 court decision [4] that concluded that such participations did not involve the sale of securities under federal securities laws. The interagency statement also identified and discussed related safety and soundness concerns such as heightened legal, reputation, and compliance risks.

The OCC's banking circular contained loan participation guidelines addressing safety and soundness concerns. We have adopted similar guidelines, including the requirement that a buying participant exercise an independent credit judgment as part of our general regulatory guidance for loan purchases and participations.

IV. Proposal Removes 10-Percent Retention Requirement

Section 614.4330(b) generally requires that any non-System lender that sells a loan participation to a System institution but continues to service the loan must retain at least 10 percent of the principal amount of the loan, or the seller's legal lending limit, whichever is less. We imposed this regulatory requirement to ensure the non-System seller and servicer would maintain appropriate controls for loans sold to System participants.

Because of changes in the financial markets, the System's growing experience with loan participations, and to enable FCS institutions to effectively use their existing statutory participation authorities, we now propose removing this retention requirement. This change will facilitate the use of 100-percent participations and allow the participation agreement to provide for loan servicing. However, compensating management controls will be needed to mitigate possible increased risk the added flexibility offers.

V. Characteristics of Typical Participations and Loan Purchases

A. Participations and Loan Purchases

Participations are commonly used when a lender makes a loan and then wishes to sell all of or a portion of the loan. In a participation, the originating lender typically sets up the lending relationship with the borrower and obtains the promissory note, loan agreement and supporting security documents in its name. The participating lender receives an interest in the loan and its collateral through a loan participation agreement and participation certificate.

In contrast, in a typical loan purchase, the buyer, through the purchase agreement, is assigned all rights included in the legal documents, security instruments, and rights to collateral. The buyer assumes the legal lender relationship with the borrower and arranges loan repayment, servicing, and as necessary collection, either directly with the borrower or contractually through an agent.

In typical loan participations all documentation for the loan is between the borrower and the originating lender, and the originating lender has the sole contact with the borrower. The borrower and participant have no direct relationship and there is no contract between the two parties. Therefore, the participant normally must rely on the seller to enforce the terms of the documents between the originating lender and the borrower.

B. Advantages of Participations

Some of the principal advantages of participations are:

- Lending limit relief for the seller,
- Increased liquidity for the seller,
- Reduced concentration risk for both the buyer and seller through greater portfolio diversification,
- Increased fee income opportunities,
- Access to external credit expertise and new and diverse markets,
- Improved capital adequacy management for both the buyer and seller, and
- Better use of the buyer's excess funds.

C. Controlling Risk of Participations

There are risk control issues that can arise with loan participations. Some of these are typical of any credit arrangement. However, expanding the definition of a loan participation to include 100-percent participations can increase certain types of risks if not controlled and managed appropriately.

Therefore, we believe that System institutions should take extra care in developing the policies and procedures for their participation programs if they intend to buy 100-percent participations. An institution's policies and procedures and participation agreements should, at a minimum, address the following risks:

1. *Credit risk*—The participant depends on the originating lender to obtain, develop, and evaluate the relevant information about the borrower and the structure of the credit.

2. *Legal risk*—The originating lender typically prepares the documentation for the loan and perfects any security interests. The participant generally has a share of the rights of the originating lender. If deficiencies exist, the participant's rights may be limited.

3. *Administrative risk*—Typically, the participant must rely on the originating lender to (a) service, monitor, and control the credit relationship with the borrower, (b) provide information about the borrower, and (c) remit payments received from the borrower. However, all of the aforementioned administrative actions must be addressed in the participation agreement as well as the parties' duties and responsibilities.

A participant's administrative risk increases when the originating lender has no direct financial interest in the loan. The proposed removal of the 10-percent retention requirement increases this risk. The participation agreement should specifically address whether the

[3] OCC–BC–181 ''Purchases of Loans in Whole or in Part Participations'' (August 2, 1984).

[4] *Banco Espanol De Credito v. Security Pacific National Bank*, 973 F.2d 51 (2nd Cir. 1992).

seller has the ability, and under what circumstances, to transfer or sell the note or agreement to a third party without concurrence by the participant.

D. Managing Portfolio Risk

Our current regulations require each System institution involved in loan participation activities to develop and implement policies and procedures for such programs, including establishing appropriate portfolio limits to control portfolio risk.

While participations offer a number of advantages to an institution's portfolio (especially as risk diversification tools) they also carry additional risks not common to a normal borrower/lender relationship. We believe policy direction from a System institution's board of directors becomes even more important with these proposed changes. Portfolio limitations should be reviewed by the institution's board to ensure loan participations are appropriately integrated into the institution's overall business plan and risk management strategies.

VI. Farmer Mac Related Participation Authorities

In response to a question raised by Farmer Mac,[5] we propose a change in the authorities contained in part 614, subpart A, of the regulations. The Act provides that banks and associations can enter into participation arrangements with other System institutions, which by definition includes Farmer Mac. However, our present regulations do not reflect this fact. Farmer Mac was given authority to buy, sell, hold, or assign loans after the present regulations were written. Therefore, we propose to revise the authority regulations in part 614, subpart A, to clarify the loan participation authorities of System banks and associations and Farmer Mac.

VII. Technical and Conforming Changes

We are also proposing certain technical and conforming changes to the regulations.

List of Subjects

12 CFR Part 614

Agriculture, Banks, Banking, Flood insurance, Foreign trade, Reporting and recordkeeping requirements, Rural areas.

12 CFR Part 619

Agriculture, Banks, Banking, Rural areas.

[5] Farmer Mac, in a letter dated October 26, 1999, requested that we modify our regulations to recognize Farmer Mac authority to sell loan participations to System Institutions.

For the reasons stated in the preamble, we propose to amend parts 614 and 619 of chapter VI, title 12 of the Code of Federal Regulations as follows:

PART 614—LOAN POLICIES AND OPERATIONS

1. The authority citation for part 614 continues to read as follows:

Authority: 42 U.S.C. 4012a, 4104a, 4104b, 4106, and 4128; secs. 1.3, 1.5, 1.6, 1.7, 1.9, 1.10, 1.11, 2.0, 2.2, 2.3, 2.4, 2.10, 2.12, 2.13, 2.15, 3.0, 3.1, 3.3, 3.7, 3.8, 3.10, 3.20, 3.28, 4.12, 4.12A, 4.13, 4.13B, 4.14, 4.14A, 4.14C, 4.14D, 4.14E, 4.18, 4.18A, 4.19, 4.25, 4.26, 4.27, 4.28, 4.36, 4.37, 5.9, 5.10, 5.17, 7.0, 7.2, 7.6, 7.8, 7.12, 7.13, 8.0, 8.5 of the Farm Credit Act (12 U.S.C. 2011, 2013, 2014, 2015, 2017, 2018, 2019, 2071, 2073, 2074, 2075, 2091, 2093, 2094, 2097, 2121, 2122, 2124, 2128, 2129, 2131, 2141, 2149, 2183, 2184, 2199, 2201, 2202, 2202a, 2202c, 2202d, 2202e, 2206, 2206a, 2207, 2211, 2212, 2213, 2214, 2219a, 2219b, 2243, 2244, 2252, 2279a, 2279a–2, 2279b, 2279c–1, 2279f, 2279f–1, 2279aa, 2279aa–5); sec. 413 of Pub. L. 100–233, 101 Stat. 1568, 1639.

Subpart A—Lending Authorities

2. Amend § 614.4000 as follows:

a. Remove the word ''and'' at the end of paragraph (d)(1);

b. Remove the ''.'' and add ''; and'' at the end of paragraph (d)(2); and

c. Add paragraph (d)(3) to read as follows:

§ 614.4000 Farm Credit Banks.

* * * * *

(d)(3) The Federal Agricultural Mortgage Corporation to the extent provided in § 614.4055.

* * * * *

3. Amend § 614.4010 as follows:

a. Remove the word ''and'' at the end of paragraph (e)(1);

b. Remove the ''.'' and add ''; and'' at the end of paragraph (e)(2); and

c. Add paragraph (e)(3) to read as follows:

§ 614.4010 Agricultural credit banks.

* * * * *

(e)(3) The Federal Agricultural Mortgage Corporation to the extent provided in § 614.4055.

* * * * *

4. Amend § 614.4020 as follows:

a. Remove the ''.'' and add ''; and'' at the end of paragraph (b)(2); and

b. Add paragraph (b)(3) to read as follows:

§ 614.4020 Banks for cooperatives.

* * * * *

(b)(3) The Federal Agricultural Mortgage Corporation to the extent provided in § 614.4055.

5. Amend § 614.4030 as follows:

a. Remove the word ''and'' at the end of paragraph (b)(1);

b. Remove the ''.'' and add ''; and'' at the end of paragraph (b)(2); and

c. Add paragraph (b)(3) to read as follows:

§ 614.4030 Federal land credit associations.

* * * * *

(b)(3) The Federal Agricultural Mortgage Corporation to the extent provided in § 614.4055.

* * * * *

6. Amend § 614.4040 as follows:

a. Remove the word ''and'' at the end of paragraph (b)(1);

b. Remove the ''.'' and add ''; and'' at the end of paragraph (b)(2); and

c. Add paragraph (b)(3) to read as follows:

§ 614.4040 Production credit associations.

* * * * *

(b)(3) The Federal Agricultural Mortgage Corporation to the extent provided in § 614.4055.

* * * * *

7. Amend § 614.4050 as follows:

a. Remove the word ''and'' at the end of paragraph (c)(1);

b. Remove the ''.'' and add ''; and'' at the end of paragraph (c)(2); and

c. Add paragraph (c)(3) to read as follows:

§ 614.4050 Agricultural credit associations.

* * * * *

(c)(3) The Federal Agricultural Mortgage Corporation to the extent provided in § 614.4055.

* * * * *

8. Add a new § 614.4055 to read as follows:

§ 614.4055 Federal Agricultural Mortgage Corporation loan participations.

Subject to the requirements of subpart H of this part 614:

(a) Any Farm Credit System bank or direct lender association may buy from, and sell to, the Federal Agricultural Mortgage Corporation, participation interests in ''qualified loans.''

(b) The Federal Agricultural Mortgage Corporation may buy from, and sell to, any Farm Credit System bank or direct lender association, or lender that is not a Farm Credit System institution, participation interests in ''qualified loans.''

(c) For purposes of this section, ''qualified loans'' means qualified loans as defined in section 8.0(9) of the Act.

Subpart H—Loan Purchases and Sales

9. Amend § 614.4325 by:

a. Removing paragraph (a)(4);

b. Redesignating paragraphs (a)(5), (a)(6), and (a)(7) as paragraphs (a)(4), (a)(5), and (a)(6), respectively; and revising newly designated paragraph (a)(4) to read as follows:

§ 614.4325 Purchase and sale of interests in loans.

* * * * *

(a)(4) *Participating institution* means an institution that purchases a participation interest in a loan originated by another lender.

* * * * *

§ 614.4330 [Amended]

10. Amend § 614.4330 as follows:

a. Remove the words ''an undivided'' and add in their place the words ''a participation'' in paragraph (a)(9); and

b. Remove paragraph (b) and redesignate existing paragraph (c) as paragraph (b).

Subpart J—Lending and Leasing Limits

§ 614.4358 [Amended]

11. Amend § 614.4358 as follows:

a. Remove paragraph (b)(4)(i); and

b. Redesignate paragraphs (b)(4)(ii) and (b)(4)(iii) as paragraphs (b)(4)(i) and (b)(4)(ii), respectively.

PART 619—DEFINITIONS

12. The authority citation for part 619 continues to read as follows:

Authority: Secs. 1.7, 2.4, 4.9, 5.9, 5.12, 5.17, 5.18, 7.0, 7.6, 7.7, 7.8 of the Farm Credit Act (12 U.S.C. 2015, 2075, 2160, 2243, 2246, 2252, 2253, 2279a, 2279b, 2279b–1, 2279b–2).

§ 619.9195 [Removed and Reserved]

13. Remove and reserve § 619.9195.

Dated: July 20, 2000.

Kelly Mikel Williams,

Secretary, Farm Credit Administration Board.

[FR Doc. 00–18873 Filed 7–25–00; 8:45 am]

BILLING CODE 6705–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NM–133–AD]

RIN 2120–AA64

Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model EMB–120 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain EMBRAER Model EMB–120 series airplanes. This proposal would require a one-time inspection to detect wear of the hydraulic pump hoses, and corrective action, if necessary. This proposal would also require relocation of the clip that secures the left forward hold-open rod of both nacelles. This action is necessary to prevent chafing and consequent rupture of the hydraulic line and loss of hydraulic pressure, which could result in reduced controllability of the airplane. This action is intended to address the identified unsafe condition.

DATES: Comments must be received by August 25, 2000.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2000-NM–133-AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays. Comments may also be sent via the Internet using the following address: 9-anm-nprmcomment@faa.gov. Comments sent via the Internet must contain ''Docket No. 2000-NM–133-AD'' in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in the proposed rule may be obtained from Empresa Brasileira de Aeronautica S.A. (EMBRAER), P.O. Box 343—CEP 12.225, Sao Jose dos Campos—SP, Brazil. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Small Airplane Directorate, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia.

FOR FURTHER INFORMATION CONTACT: Robert Capezzuto, Aerospace Engineer, Systems and Flight Test Branch, ACE–116A, FAA, Small Airplane Directorate, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia 30349; telephone (770) 703–6071; fax (770) 703–6097.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Submit comments using the following format:

- Organize comments issue-by-issue. For example, discuss a request to change the compliance time and a request to change the service bulletin reference as two separate issues.
- For each issue, state what specific change to the proposed AD is being requested.
- Include justification (e.g., reasons or data) for each request.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 2000-NM–133-AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2000-NM–133-AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The Departmento de Aviacao Civil (DAC), which is the airworthiness authority for Brazil, notified the FAA that an unsafe condition may exist on certain EMBRAER Model EMB–120 series airplanes. The DAC advises that it has received a report of one case of rupture of an engine-driven pump hydraulic hose, possibly due to its friction against the clip that secures the

left-hand forward cowling hold-open rod of both nacelles. The rupture led to the loss of the hydraulic fluid of the relevant system. This condition, if not corrected, could result in reduced controllability of the airplane.

Explanation of Relevant Service Information

EMBRAER has issued Service Bulletin 120–29–0047, Change 01, dated October 22, 1996, which consists of two parts. Part I describes procedures for a visual inspection of all hydraulic hoses installed in both nacelles to detect wearout, chafing, or scores. Follow-on and corrective actions include ensuring a certain distance between the cowl rod clip and the hydraulic hoses, repairing discrepant hoses, relocating the clip that secures the left hold-open rod of both nacelles to prevent further chafing, and replacing the hydraulic hoses with those having the same part number. Part II describes procedures for relocating the clip. Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition. The DAC classified this service bulletin as mandatory and issued Brazilian airworthiness directive 96–12–01, dated December 13, 1996, in order to ensure the continued airworthiness of these airplanes in Brazil.

FAA's Conclusions

This airplane model is manufactured in Brazil and is type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the DCA has kept the FAA informed of the situation described above. The FAA has examined the findings of the DAC, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require accomplishment of the actions specified in the service bulletin described previously.

Cost Impact

The FAA estimates that 200 airplanes of U.S. registry would be affected by this proposed AD.

It would take approximately 1 work hour per airplane to inspect the hydraulic hoses, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the proposed inspection on U.S. operators is estimated to be $12,000, or $60 per airplane.

It would take approximately 1 work hour per airplane to relocate the clip, at an average labor rate of $60 per work hour. Required parts would cost approximately $15 per airplane. Based on these figures, the cost impact of the proposed clip relocation on U.S. operators is estimated to be $15,000, or $75 per airplane.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Regulatory Impact

The regulations proposed herein would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this proposal would not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this proposed regulation (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Empresa Brasileira De Aeronautica S.A. (Embraer): Docket 2000–NM–133–AD.

Applicability: Model EMB–120 series airplanes, certificated in any category, having serial numbers listed in EMBRAER Service Bulletin 120–29–0047, Change 01, dated October 22, 1996.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent rupture of the hydraulic line and loss of hydraulic pressure due to chafing, which could result in reduced controllability of the airplane, accomplish the following:

(a) Within 75 flight hours after the effective date of this AD, perform a general visual inspection to detect discrepancies (wear, chafing, or scores) of all hydraulic pump hoses installed in both nacelles, in accordance with Part I of EMBRAER Service Bulletin 120–29–0047, Change 01, dated October 22, 1996. Prior to further flight, perform all applicable corrective actions in accordance with the service bulletin.

Note 2: Accomplishment, prior to the effective date of this AD, of the inspection in accordance with Part I of EMBRAER Service Bulletin 120–29–0047, dated August 22, 1996, is acceptable for compliance with the requirements of paragraph (a) of this AD.

Note 3: For the purposes of this AD, a general visual inspection is defined as: ''A visual examination of an interior or exterior area, installation, or assembly to detect obvious damage, failure, or irregularity. This level of inspection is made under normally available lighting conditions such as daylight, hangar lighting, flashlight, or drop-light, and may require removal or opening of access panels or doors. Stands, ladders, or platforms may be required to gain proximity to the area being checked.''

(b) Within 75 flight hours after the effective date of this AD, relocate the clip that secures the left forward hold-open rod of both nacelles in accordance with Part II of

EMBRAER Service Bulletin 120–29–0047, Change 01, dated October 22, 1996.

Alternative Methods of Compliance

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Atlanta Aircraft Certification Office (ACO), FAA, Small Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Atlanta ACO.

Note 4: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Atlanta ACO.

Special Flight Permits

(d) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Note 5: The subject of this AD is addressed in Brazilian airworthiness directive 96–12–01, dated December 13, 1996.

Issued in Renton, Washington, on July 20, 2000.

Donald L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 00–18915 Filed 7–25–00; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NM–17–AD]

RIN 2120–AA64

Airworthiness Directives; Fokker Model F.28 Mark 0100 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to all Fokker Model F.28 Mark 0100 series airplanes. This proposal would require replacement of the anti-skid control boxes with improved units. This action is necessary to prevent electromagnetic interference with the anti-skid control system, which could result in reduced brake pressure during low-speed taxiing, and consequent reduced controllability and performance of the airplane. This action is intended to address the identified unsafe condition.

DATES: Comments must be received by August 25, 2000.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2000–NM–17–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays. Comments may also be sent via the Internet using the following address: 9-anm-nprmcomment@faa.gov. Comments sent via the Internet must contain ''Docket No. 2000–NM–17–AD'' in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in the proposed rule may be obtained from Fokker Services B.V., P.O. Box 231, 2150 AE Nieuw-Vennep, the Netherlands. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Norman B. Martenson, Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2110; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Submit comments using the following format:

- Organize comments issue-by-issue. For example, discuss a request to change the compliance time and a request to change the service bulletin reference as two separate issues.
- For each issue, state what specific change to the proposed AD is being requested.
- Include justification (*e.g.,* reasons or data) for each request.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 2000–NM–17–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2000–NM–17–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The Rijksluchtvaartdienst (RLD), which is the airworthiness authority for the Netherlands, notified the FAA that an unsafe condition may exist on all Fokker Model F.28 Mark 0100 series airplanes. The RLD advises that it has previously required accomplishment of certain modifications to improve the design safety features that provide adequate electromagnetic interference (EMI) protection of the wheelspeed signal wiring. Analysis has shown that accomplishment of these modifications should be sufficient to withstand the currently known EMI sources. However, unknown sources of EMI could still exist that would adversely affect the anti-skid control system and result in reduced brake pressure during low speed taxiing. This condition, if not corrected, could result in reduced controllability and performance of the airplane.

Explanation of Related Rulemaking

The FAA has previously issued AD 99–20–07, amendment 39–11337 (64 FR 52219, September 28, 1999) which requires modification of the ground wiring to the shielding of the wheelspeed sensor wiring of the main landing gear (MLG); and installation of new electrical grounds for the wheelspeed sensor channel of the anti-skid control box of the MLG. These modifications provide additional grounds to the shielding of the wheelspeed sensor wiring and to the power supplies of the anti-skid control box. These additional grounds reduce

the effects of EMI generated by electrical wiring that runs parallel to the wheelspeed sensor wiring.

Explanation of Relevant Service Information

Fokker Services B.V. has issued Fokker Service Bulletin SBF100–32–117, dated September 27, 1999, which describes procedures for replacement of the anti-skid control box with an improved unit that is less susceptible to EMI. Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition. The RLD classified this service bulletin as mandatory and issued Dutch airworthiness directive 1999–127, dated October 29, 1999, in order to assure the continued airworthiness of these airplanes in the Netherlands.

FAA's Conclusions

This airplane model is manufactured in the Netherlands and is type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the RLD has kept the FAA informed of the situation described above. The FAA has examined the findings of the RLD, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require accomplishment of the actions specified in the service bulletin described previously.

Cost Impact

The FAA estimates that 129 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 1 work hour per airplane to accomplish the proposed actions, and that the average labor rate is $60 per work hour. Required parts would cost approximately $3,950 per airplane. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $517,290, or $4,010 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

Regulatory Impact

The regulations proposed herein would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this proposal would not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this proposed regulation (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Fokker Services B.V.: Docket 2000–NM–17–AD.

Applicability: All Model F.28 Mark 0100 series airplanes, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (b) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent electromagnetic interference with the anti-skid control system, which could result in reduced brake pressure during low-speed taxiing, and consequent reduced controllability and performance of the airplane, accomplish the following:

(a) Within 36 months after the effective date of this AD, replace any anti-skid control box having part number (P/N) 6004272–3, –4, or –5 with an improved anti-skid control box having P/N 6004272–6, in accordance with Fokker Service Bulletin SBF100–32–117, dated September 27, 1999.

Alternative Methods of Compliance

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

Special Flight Permits

(c) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Note 3: The subject of this AD is addressed in Dutch airworthiness directive 1999–127, dated October 29, 1999.

Issued in Renton, Washington, on July 20, 2000.

Donald L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 00–18913 Filed 7–25–00; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 35

[Docket No. RM00–10–000]

Open Access Same-Time Information System Phase II

Issued July 14, 2000.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Advance notice of proposed rulemaking (ANOPR).

SUMMARY: The Federal Energy Regulatory Commission (Commission) requests the submission of detailed proposals, by February 15, 2001, that will enable the Commission to adopt by regulation certain communications protocols and standards for business practices to implement Open Access Same-Time Information System (OASIS) Phase II. OASIS Phase II will be more functional than the current OASIS Phase IA, will incorporate electronic scheduling and will apply to the communications and related business practices between customers and Transmission Providers, including Regional Transmission Organizations (RTOs).

DATES: Proposals are due on February 15, 2001.

ADDRESSES: Proposals should be filed with the Office of the Secretary and should refer to Docket No. RM00–10–000. Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

FOR FURTHER INFORMATION CONTACT:
Marvin Rosenberg (Technical Information), Office of Markets, Tariffs and Rates, Federal Energy Regulatory Commission 888 First Street, NE., Washington, DC 20426, (202) 208–1283
Paul Robb (Technical Information), Office of Markets, Tariffs and Rates, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, (202) 219–2702
Gary Cohen (Legal Information), Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, (202) 208–0321

SUPPLEMENTARY INFORMATION:

Advance Notice of Proposed Rulemaking

The Federal Energy Regulatory Commission (Commission) requests the submission of detailed proposals, by February 15, 2001, that will enable the Commission to adopt by regulation certain communications protocols and standards for business practices to implement Open Access Same-Time Information System (OASIS) Phase II. OASIS Phase II will be more functional than the current OASIS Phase IA, will incorporate electronic scheduling and will apply to the communications and related business practices between customers and Transmission Providers.[1]

I. Background

In Order No. 889,[2] the Commission began the process of standardizing electronic communication in the electric industry by requiring public utilities that own, control, or operate facilities used for the transmission of electric energy in interstate commerce to create or participate in an Internet-based information system called OASIS. The rules established in Order No. 889 were for a basic (Phase I) OASIS. OASIS Phase I became operational on January 3, 1997. Order No. 889 also contemplated that an enhanced (Phase II) OASIS would be later established.[3] In March 1997, the Commission issued Order No. 889–A that required on-line negotiations for discounts as well as the posting of discounts on the OASIS. In June 1998[4] and September 1998[5] we adopted comprehensive updates of the OASIS and Standards and Communications Protocols Document (Phase IA SC&P) that implemented on-line negotiations as well as other improvements suggested by the industry for OASIS. The Phase IA rules became operational on March 1, 1999 and improved the operations of the basic Phase I OASIS as an interim step toward the development of the enhanced OASIS Phase II.[6]

In Order No. 889 the Commission requested the industry to file a consensus report proposing standards for OASIS Phase II.[7] On November 3, 1997, the Commercial Practices Working Group (CPWG)[8] and the OASIS How Group (How Group) filed a report entitled ''Industry Report to the Federal Energy Regulatory Commission on the Future of OASIS'' (Industry Report). The Industry Report did not propose standards for Phase II but instead presented lessons learned from OASIS Phase I and posed several broad policy issues relating to the future scope and development of OASIS. In particular, the report raised the question of whether the standards to be developed should be regional or national in scope.

On June 19, 1998, the CPWG and the How Group filed a report entitled ''Industry Report to the Federal Energy Regulatory Commission on OASIS Phase IA Business Practices'' (June 19 Report) offering a set of uniform business practice standards and guidelines for adoption by the Commission. The June 19 Report argued that, because many OASIS-related business practice implementation details were left for transmission providers to determine for themselves, significant variation arose among business practices across OASIS nodes. To reduce this variation and to promote greater consistency in the implementation of the Commission's open access policy and OASIS policy, the CPWG/How Group proposed that the Commission adopt its recommended ''Phase IA Business Practice Standards and Guides'' (Business Practices). On February 25, 2000, in Order No. 638, the Commission adopted the proposed Business Practices.[9] On December 20, 1999, the Commission issued a Final Rule (Order No. 2000) to advance the formation of Regional Transmission Organizations (RTOs).[10] Order No. 2000, among other things, established

[1] For ease in reference, we use the term Transmission Provider as a shorthand for all public utilities that own and/or control facilities used for the transmission of electric energy in interstate commerce. This definition also encompasses Independent System Operators and Regional Transmission Organizations.

[2] Open Access Same-Time Information System (Formerly Real-Time Information Networks) and Standards of Conduct, Order No. 889, FERC Stats. & Regs. ¶ 31,035 at 31,583 (1996), *order on reh'g*, Order No. 889–A, FERC Stats. & Regs. ¶ 31,049 (1997), *order on reh'g*, Order No. 889–B, 81 FERC ¶ 61,253 (1997).

[3] We explained that the inclusion of scheduling as part of the OASIS requirements would be addressed in OASIS Phase II.

[4] Open Access Same-Time Information System and Standards of Conduct, 83 FERC ¶ 61,360 at 62,452 (1998) (June 18 Order).

[5] Open Access Same-Time Information System and Standards of Conduct, 84 FERC ¶ 61,329 (1998).

[6] OASIS ''Phase IA'' is a label devised by the industry to refer to revisions to the OASIS Phase I requirements that implemented the on-line negotiation of discounts. *See* Open Access Same-Time Information System and Standards of Conduct, 83 FERC ¶ 61,360 at 62,452 (1998).

[7] Order No. 889, FERC Stats. & Regs. ¶ 31,035 at 31,627 (1996) .

[8] The CPWG is no longer functioning. Its activities have been taken over by a successor industry group, the Market Interface Committee (MIC).

[9] Open Access Same-Time Information System and Standards of Conduct, Order No. 638, 90 FERC ¶ 61,202 (2000).

[10] Regional Transmission Organizations, Order No. 2000, 65 FR 809 (January 6, 2000), FERC Stats. & Regs. ¶ 31,089 (2000), *order on reh'g*, Order No. 2000–A, 65 FR 12,088 (March 8, 2000), FERC Stats. & Regs. ¶ 31,092 (2000), *petitions for review pending sub nom.*, Public Utility District No. 1 of Snohomish County, Washington v. FERC, Nos. 00–1174, *et al.*

minimum characteristics and functions that an RTO must satisfy.

In Order No. 2000, we stated:

> How Group and other commenters address issues relating to the standardization of transmission transactions. Standardization of transactions involves two separate concerns: (1) Many transactions will cross RTO boundaries; and (2) numerous customers will do business with multiple RTOs. Without standardized communications protocols and business practices, the costs of doing business will be increased as market participants will be required to install additional software and add personnel to transact with different RTOs and regions. Therefore, to promote interregional trade, standardized methods of moving power into, out of, and across RTO territories will be needed.
>
> We believe that standards for communications between customers and RTOs must be developed to permit customers to acquire expeditiously common services among RTOs. For example, we envision the creation of standardized communications protocols to schedule power movements and to acquire auction rights. These protocols would not standardize what the rights are, or the nature of the auctions. Instead, the focus of the communications protocols would be on how customers communicate their intentions to an RTO and how customers receive an RTO's responses.
>
> We agree with How Group and others that certain business and communication standards are necessary, and we believe that these standards will facilitate the development of efficient markets. We believe, however, that these issues need further examination based on a complete record.[11]

II. Discussion

In Orders Nos. 888 and 889, the Commission established OASIS for two purposes: (1) To help mitigate transmission market power by providing non-discriminatory access to transmission information and services; and (2) to promote the development of competitive markets for power by setting national standards for the reservation of transmission capacity. Our objective of promoting the development of uniform standards to support competitive markets for power still remains. In the four years since Order Nos. 888 and 889 were issued, the Commission has found that transmission market power could be mitigated more effectively by RTOs. We also found that RTOs would promote more efficient grid management and reliability needed for competitive electricity markets. Thus, OASIS changes may be needed to promote and complement the development of RTOs.

Any revised standards, like the current OASIS standards, will apply to each public utility that owns and/or controls facilities used for the transmission of electric energy in interstate commerce, including RTOs. We also stated in Order No. 2000 that ''an RTO must be the single OASIS site administrator for all transmission facilities under its control.'' [12] The RTO's function as a single OASIS site administrator will help to ensure standardization within each RTO; however, customers will also obtain transmission service across multiple RTOs and compatibility among RTOs with respect to transmission information and transaction requirements is essential. Efficient wholesale power markets require that communication protocols not raise barriers to the ability of parties to make trades in a timely manner. Such impediments should be eliminated, or, at a minimum, reduced to the maximum extent possible. Order No. 2000 recognized this, not only by establishing OASIS as a separate function of an RTO, but also by establishing interregional coordination as one of the functions for an RTO.

We also intend to facilitate communication between customers and Transmission Providers for services and critical market information, *e.g.,* auctions for transmission rights, the posting of available transmission capacity (ATC), total transmission capacity (TTC) and capacity benefit margin (CBM), prices for transmission and ancillary services, information on curtailments and interruptions and transmission facility status.

The Commission is soliciting proposals, to be filed by February 15, 2001, containing detailed, standard communication protocols and associated business practices that all Transmission Providers and customers would use in reserving and scheduling power, and to reserve and schedule transmission to accommodate power flows into, out of, and across RTOs. The Commission intends to review the proposals received in response to the ANOPR and issue a Notice of Proposed Rulemaking (NOPR) or take other appropriate action.

We continue to believe that the communications standards and protocols of OASIS Phase II, like the current OASIS Phase IA, shall make use of: (1) The Internet for communications; (2) interactive displays using World Wide Web browsers; [13] (3) file uploads and downloads for computer-to-computer communication; and (4) templates defining the file uploads and downloads. In addition, submitted proposals should address what modifications to the existing OASIS Standards and Communications Protocols and related business practices [14] are necessary to implement OASIS Phase II.

In various OASIS-related orders, we postponed adding certain functionality to OASIS until Phase II. The most pressing of these is electronic scheduling.[15] In addition, other functionality was incorporated as OASIS developed (such as a modified form of dynamic notification [16] and formats for electronic submission of tariffs [17]) and other functionality was no longer needed because OASIS, the market or technology developed in a different direction (*e.g.,* breaking large files into 100,000 byte segments [18]). The proposals should discuss whether the additional functionality of complete dynamic notification should be integrated in OASIS Phase II, and, furthermore, the industry should consider whether generator-run status information should be incorporated into OASIS Phase II.

Also, our experience with OASIS Phase I has taught us that business practices standards, in addition to communication standards and protocols are needed for the development of efficient markets and for the efficient use of the transmission grid. Accordingly, submitted proposals should identify any business practices that need to be standardized.

The Commission's experience with Order No. 889 and Order No. 636 has taught us that industry standards, when needed, should be established as early as possible. Our goal is to identify standardization issues before entities

[11] Order No. 2000, FERC Stats. & Regs. ¶ 31,089 at 31,145 (2000) (footnote omitted).

[12] Order No. 2000, FERC Stats. & Regs. ¶ 31,089 at 31,144 (2000). Furthermore, we concluded in Order No. 2000 that an RTO has the flexibility to contract out OASIS responsibilities to another independent entity or participate in a ''super-OASIS'' jointly with other RTOs. *See id.* at 31,145.

[13] In the past we have not required standardization of WWW displays. However, in developing proposals, the industry should consider any need for a ''common look and feel'' for displays.

[14] Order No. 638, FERC Stats. & Regs. ¶ 31,093 at 31,402 (2000).

[15] *See* Order No. 889, FERC Stats. & Regs. ¶ 31,035 at 31,594 and 31,628 (1996); June 18 Order at 62,451; Open Access Same-time Information System and Standards of Conduct, 84 FERC ¶ 61,324 at 62,455 (1998).

[16] *See* June 18 Order at 62,463–64. Dynamic notification occurs when an OASIS node automatically (without a re-query by a customer) notifies a customer of information changes such as the current ATC for a given path or the status of a pending service request.

[17] *See* Order No. 889–A, FERC Stats. & Regs. ¶ 31,049 at 30,575 (1997).

[18] Order No. 889, FERC Stats. & Regs. ¶ 31,035 at 31,625 (1996).

invest extensive capital in a system. We intend, therefore, to have OASIS Phase II operational by December 15, 2001 (the RTO startup date). In this way, we hope to avoid unnecessary expenditures by the industry.

Timetable and Other Information

The Commission expects the proposals to be sufficiently detailed so they may be included in a NOPR. The comments and proposals submitted on February 15, 2001, should also propose an implementation schedule or plan to transition from OASIS Phase IA to OASIS Phase II, including time for testing, to allow the standards to be fully implemented by December 15, 2001.

The Commission urges representatives of the various segments of the industry to work together to achieve a consensus on these proposals. The Commission's earlier efforts in this area benefitted greatly from the input of a number of industry working groups. The Commission continues to believe that the industry should take the lead in developing and implementing standards that will be both practical and workable for the variety of business transactions that will take place. Commission staff intends to consult and participate in this process. The Commission will give proposals developed through a collaborative industry process considerable weight. However, collaborative input can only be considered if it is provided to us in a timely manner so that we may adhere to the timetables set forth here.

III. Document Availability

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the Internet through FERC's Home Page (http://www.ferc.fed.us) and in FERC's Public Reference Room during normal business hours (8:30 a.m. to 5 p.m. Eastern time) at 888 First Street, NE., Room 2A, Washington, DC 20426.

From FERC's Home Page on the Internet, this information is available in both the Commission Issuance Posting System (CIPS) and the Records and Information Management System (RIMS).

• CIPS provides access to the texts of formal documents issued by the Commission since November 14, 1994. CIPS can be accessed using the CIPS link or the Energy Information Online icon. The full text of this document will be available on CIPS in ASCII and WordPerfect 8.0 format for viewing, printing, and/or downloading.

• RIMS contains images of documents submitted to and issues by the Commission after November 16, 1981. Documents from November 1995 to the present can be viewed and printed from FERC's Home Page using the RIMS link or the Energy Information Online icon. Descriptions of documents back to November 16, 1981, are also available from RIMS-on-the-Web; requests for copies of these and other older documents should be submitted to the Public Reference Room.

User assistance is available for RIMS, CIPS, and the Website during normal business hours from our Help line at (202) 208–2222 (e-mail to WebMaster@ferc.fed.us) of the Public Reference Room at (202) 208–1371 (e-mail to public.referenceroom@ferc.fed.us).

During normal business hours, documents can also be viewed and/or printed in FERC's Public Reference Room, where RIMS, CIPS, and the FERC Website are available. User assistance is also available.

By direction of the Commission. Commissioner Hebert concurred with a separate statement attached.

Linwood A. Watson, Jr.,

Acting Secretary.

HeBERT, Commissioner *concurring:*

The Commission today issues an Advance Notice of Proposed Rulemaking on standards for electronic communications among participants in the transmission market. The document solicits detailed proposals by February 2001, with the goal for the system to operate by December 15 of that year. Some may consider this a major step forward in the development of competitive markets. If I viewed this rulemaking in isolation from Order No. 2000 and the collaborative process that we and the industry have undertaken to form Regional Transmission Organizations (RTO's), I would agree. Looking at the big picture, however, I consider our action today unnecessary, at best, and, at worst, a potential distraction from the more important job of reaching the goal we all endorse: competition through a viable stand-alone transmission business.

I consider a rulemaking at this juncture a waste of time because Order No. 2000 already covered this ground . In particular, Section 35.34(k)(5) makes the RTO the OASIS administrator within the organizations's boundaries. In addition, section 35.34(k)(8) describes interregional coordination as ''ensur[ing] the integration of reliability practices within an interconnection and market practices among regions.'' (Emphasis added). The section in the Preamble on interregional coordination explains, ''The integration of market interface practices involves developing some level of standardization of inter-regional market standards, including the co-ordination of * * * transmission reservation practices, * * * as well as other market coordination requirements covered elsewhere in the Final Rule.'' Order No. 2000, mimeo at 497.

Since all regulated transmission owners are participating in the process of forming RTO's, the industry is already engaged in the process we seek to start today. Transco's especially need to ensure proper communications, for reservations and scheduling, or they cannot establish a viable transmission business. In addition, entrepreneurs are engaged now in trying to improve, or supplant, OASIS, a system that all admit uses obsolete technology. I fail to see why we need to do anything drastic, such as issuing a new rule on one aspect of what we covered in Order No. 2000. In that regard, I point out that the order states that we may take ''other appropriate action,'' not necessarily issuing a Notice of Proposed Rulemaking. Mimeo at 7.

I consider a rulemaking a potential distraction because of the timetables the Commission imposes. Order No. 2000 recognized that electronic communication with organizations that may not exist presents a problem. Therefore, we stated that, instead of an implementation schedule, the RTO filings should ''provide a schedule for * * * follow-up details on how [the RTO] is meeting the coordination requirements.* * *'' Order No. 2000, Mimeo at 494–95. In contrast, we solicit ''detailed'' proposals (mimeo at 7) by February 15, 2001, and hope to have the system operate concurrently with the commencement of RTO's. With tight timetables, parties may divert their attention from the more important issues of scope and pricing, to the subsidiary one of information technology.

The timetables have another, opposite drawback: stifling innovation. If the industry thinks that we might impose new requirements by December 15, 2001, inventors who may have innovations ready sooner will stop dead in their tracks. The market, the transmission owners and their customers, will loath to spend money if, in the end, FERC will not approve of the results. At least in the Order No. 2000, we allowed the parties to adopt whatever works. Rather than making OASIS an end in itself, as we seem to today, we make it a means toward the

goal of an efficient transmission business.

I would keep my eye on the destination. I urge the comments on this advance notice to discuss these issues, lest we lose the forest for some trees.

I concur.

Curt L. Hebert, Jr.,

Commissioner.

[FR Doc. 00–18500 Filed 7–25–00; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Part 1

[FHWA Docket No. FHWA–2000–7116]

RIN 2125–AE73

Engineering Services

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of proposed rulemaking (NPRM); request for comments.

SUMMARY: The FHWA is proposing to amend the regulation for engineering services by removing a sentence that defined expenditures for the establishment, maintenance, general administration, supervision, and other overhead of the State highway department, or other instrumentality or entity referred to in the regulation, as ineligible for Federal participation. This proposed amendment to the regulation stems from a provision in the Transportation Equity Act for the 21st Century (TEA–21) that changed statutory requirements to allow for eligibility of administrative costs for State transportation departments.

DATES: Comments must be received on or before September 25, 2000.

ADDRESSES: Submit written, signed comments to the docket number that appears in the heading of this document to the Docket Clerk, U.S. DOT Dockets, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590–0001. All comments received will be available for examination at the above address from 9 a.m. to 5 p.m., e.t., Monday through Friday, except Federal holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped envelope or postcard.

FOR FURTHER INFORMATION CONTACT: Mr. Max Inman, Federal-aid Financial Management Division, (202) 366–2853 or Mr. Steve Rochlis, Office of the Chief Counsel, (202) 366–1395, Federal Highway Administration, 400 Seventh Street SW., Washington, D.C. 20590. Office hours are from 7:45 a..m. to 4:45 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access

Internet users may access all comments received by the U.S. DOT Dockets, Room PL–401, by using the universal resource locator (URL): *http://dms.dot.gov*. It is available 24 hours each day, 365 days each year. Please follow the instructions online for more information and help.

An electronic copy of this document may be downloaded using a modem and suitable communications software from the Government Printing Office's Electronic Bulletin Board Service (202) 512–1661. Internet users may reach the Office of the **Federal Register**'s home page at *http://www.nara.gov/fedreg* and the Government Printing Office's database at *http://www.access.gpo.gov/nara*.

Background

Prior to the TEA–21 (Pub. L. 105–178, 112 Stat. 107 (1998)), expenditures for the establishment, maintenance, general administration, supervision, and other overhead of the State highway department, or other instrumentality or entity referred to in paragraph (b) of 23 CFR 1.11, were not eligible for Federal participation. However, section 1212(a) of the TEA–21 revised subsection (b) of 23 U.S.C. 302 stating that compliance with subsection 302(a) had long been interpreted as restricting the Federal eligibility of State overhead costs. Subsection 302(b) now clarifies that cost eligibility is not restricted.

Section 302 of title 23, U.S.Code, requires a State to have a functioning transportation department as a condition for receiving Federal-aid highway funds. The FHWA has interpreted this provision, in accordance with legislative intent, to mean that the costs of operating the State transportation department were not eligible for Federal highway funds. This policy was inconsistent with general government policy issued by the Office of Management and Budget which allows Federal participation in a State's indirect or overhead costs. The purpose for this statutory change was to provide for a consistent policy, especially among Federal transportation agencies.

Therefore, the FHWA is proposing to amend the regulation for engineering services. In 23 CFR 1.11(a), the first paragraph would be amended by removing the last sentence of the paragraph, ''Expenditures for the establishment, maintenance, general administration, supervision, and other overhead of the State highway department, or other instrumentality or entity referred to in paragraph (b) of this section shall not be eligible for Federal participation.''

Rulemaking Analyses and Notices

All comments received before close of business on the comment closing date indicated above will be considered and will be available for examination in the docket at the above address. Comments received after the comment closing date will be filed in the docket and will be considered to the extent practicable, but the FHWA may issue a final rule at any time after the close of the comment period. In addition to the late comments, the FHWA will also continue to file in the docket relevant information that becomes available after the comment closing date, and interested persons should continue to examine the docket for new material.

Executive Order 12866 (Regulatory Planning and Review)and DOT Regulatory Policies and Procedures

We have determined that this proposed action is neither a significant rulemaking action within the meaning of Executive Order 12866 nor a significant rulemaking under the regulatory policies and procedures of this Department. It is anticipated that the economic impact of this proposed rule will be minimal; therefore, a full regulatory evaluation is not required. Nevertheless, the FHWA solicits comments, information, and data on this issue.

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act [5 U.S.C. 601–612], we have evaluated the effects of this proposed action on small entities. Based on the evaluation and since this rulemaking action makes only minor amendments to the current regulations, the FHWA does not anticipate that the proposed rule will have a significant economic impact on a substantial number of small entities. In any event, States are not included in the definition of ''small entity'' as set forth in 5 U.S.C. 601. Therefore, this proposed action would not have a significant economic impact on a substantial number of small entities for purposes of the Regulatory Flexibility Act.

Executive Order 13132 (Federalism)

This proposed action has been analyzed in accordance with the principles and criteria contained in

Executive Order 13132 dated August 4, 1999. The FHWA anticipates that this proposed action would not have a substantial direct effect or sufficient federalism implications on States that would limit the policymaking discretion of the States. Nothing in this document directly preempts any State law or regulation.

Executive Order 12372 (Intergovernmental Review)

Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.

Paperwork Reduction Act of 1995

This proposed rule does not contain a collection of information requirement for purposes of the Paperwork Reduction Act of 1995, 44 U.S.C. 3501 *et seq.*

Unfunded Mandates Reform Act of 1995

This proposed action does not impose a Federal mandate resulting in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any year. (2 U.S.C. 1531 *et seq.*)

Executive Order 12988 (Civil Justice Reform)

This proposed action meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Executive Order 13045 (Protection of Children)

We have analyzed this action under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This proposed action here is not economically significant and does not concern an environmental risk to health of safety that may disproportionately affect children.

Executive Order 12630 (Taking of Private Property)

This proposed action will not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

National Environmental Policy Act

The FHWA has analyzed this proposed action for the purpose of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) and has determined that this action would not have any effect on the quality of the environment. Therefore, an environmental impact statement is not required.

Regulation Identification Number

A regulation identification number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN number contained in the heading of this document can be used to cross-reference this action with the Unified Agenda.

List of Subjects in 23 CFR Part 1

Administration, Conflicts of interest, Engineering services, Grant programs-transportation, Highways and roads, Rights-of-way.

Issued on: July 17, 2000.

Kenneth R. Wykle,

Federal Highway Administrator.

In consideration of the foregoing, the FHWA proposes to amend, title 23, Code of Federal Regulations, part 1, as set forth below.

PART 1—GENERAL

1. The authority citation for part 1 continues to read as follows:

Authority: 23 U.S.C. 315; and 49 CFR 1.48 (b).

2. Revise § 1.11 (a) to read as follows:

§ 1.11 Engineering services.

(a) *Federal participation.* Costs of engineering services performed by the State highway department of any instrumentality or entity referred to in paragraph (b) of this section may be eligible for Federal participation only to the extent that such costs are directly attributable and properly allocable to specific projects.

* * * * *

[FR Doc. 00–18684 Filed 7–25–00; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 Parts 655 and 940

[FHWA Docket No. FHWA–99–5899]

RIN 2125–AE65

Intelligent Transportation System Architecture and Standards

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of proposed rulemaking (NPRM); extension of comment period.

SUMMARY: This document extends this rulemaking's comment period until September 23, 2000. This is in response to numerous letters received from State departments of transportation, transit operators, and metropolitan planning organizations requesting an extension of the comment period from the closing date. These groups based their request on the time required to assess the impact of this rule on the nation's highway and transit systems and provide meaningful comments.

DATES: Comments to the NPRM should be received no later than September 23, 2000. Late comments will be considered to the extent practicable.

ADDRESSES: Signed, written comments must refer to the docket number appearing at the top of this document and must be submitted to the Docket Clerk, U.S. DOT Dockets, Room PL–401, 400 Seventh Street, S.W., Washington, D.C. 20590–0001. All comments received will be available for examination at the above address between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped envelope or postcard.

FOR FURTHER INFORMATION CONTACT: Mr. Michael Freitas, Intelligent Transportation Systems Joint Program Office (HOIT–1), (202) 366–9292; Mr. Robert Rupert, Office of Travel Management (HOTM–1), (202) 366–2194; or Mr. Wilbert Baccus, Office of the Chief Counsel (HCC–32), (202) 366–1346, Federal Highway Administration, 400 Seventh Street, SW., Washington, D.C. 20590. Office hours are from 8 a.m. to 4:30 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access

Internet users may access all comments received by the U.S. DOT Dockets, Room PL–401, by using the

universal resource locator (URL): http://dms.dot.gov. It is available 24 hours each day, 365 days each year. Please follow the instructions online for more information and help.

An electronic copy of this document may be downloaded by using a computer, modem, and suitable communications software from the Government Printing Office's Electronic Bulletin Board Service at (202) 512–1661. Internet users may reach the Office of the Federal Register's home page at http://www.nara.gov/fedreg and the Government Printing Office's web page at http://www.access.gpo.gov/nara.

The document may also be viewed at the DOT's intelligent transportation systems (ITS) home page at http://www.its.dot.gov.

Background

On May 25, 2000 (65 FR 33994), the FHWA published an NPRM proposing the establishment of regulations to implement a portion of section 5206(e) of the Transportation Equity Act for the 21st Century (TEA–21) (Public Law 105–178, 112 Stat. 107) which requires ITS projects funded from the highway trust fund to conform to the National ITS Architecture, applicable or provisional standards, and protocols.

The DOT has received requests from the American Association of State Highway and Transportation Officials, the American Public Transportation Association, the Association of Metropolitan Planning Organizations, and several State departments of transportation to extend the comment period. These groups voiced concerns that the proposed rule was extremely complex and that 90 days was insufficient time to assess the impact of the proposed rules and provide meaningful comments. We agree that more time for an in-depth analysis of the NPRM would be beneficial to the FHWA in this rulemaking. For these reasons the FHWA finds good cause to extend this NPRM comment period closing date by 30 days.

Authority: 23 U.S.C. 101, 109, 315, and 508; sec. 5206(e), Pub. L. 105–178; 112 Stat. 457 (23 U.S.C. 502 note); and 49 CFR 1.48.

Issued on: July 17, 2000.

Kenneth R. Wykle,

Federal Highway Administrator.

[FR Doc. 00–18916 Filed 7–25–00; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF LABOR

Office of the Secretary

29 CFR Part 4

RIN 1215–AB26

Service Contract Act; Labor Standards for Federal Service Contracts

AGENCY: Wage and Hour Division, Employment Standards Administration, Labor.

ACTION: Proposed rule.

SUMMARY: Pursuant to Section 4(b) of the McNamara-O'Hara Service Contract Act (SCA), the Department of Labor (DOL or the Department) is proposing exemptions from coverage for certain contracts for commercial services. The proposed exemptions were requested by the Administrator for Federal Procurement Policy, Office of Federal Procurement Policy (OFPP), in a May 12, 1999, letter to the Secretary of Labor representing that the requested exemptions were both necessary and proper in the public interest, and in accord with the remedial purpose of the SCA to protect prevailing labor standards.

DATES: Comments are due on or before August 25, 2000.

ADDRESSES: Submit written comments to John R. Fraser, Deputy Administrator, Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Room S–3502, 200 Constitution Avenue, N.W., Washington, DC 20210. Commenters who wish to receive notification of receipt of comments are requested to include a self-addressed, stamped postcard, or to submit them by certified mail, return receipt requested. As a convenience to commenters, comments may be transmitted by facsimile (''FAX'') machine to (202) 693–1432 (this is not a toll-free number). If transmitted by facsimile and a hard copy is also submitted by mail, please indicate on the hard copy that it is a duplicate copy of the facsimile transmission.

FOR FURTHER INFORMATION CONTACT: William W. Gross, Director, Office of Wage Determinations, Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Room S–3028, 200 Constitution Avenue, N.W., Washington, D.C. 20210; telephone (202) 693–0062. This is not a toll-free number.

SUPPLEMENTARY INFORMATION:

I. Paperwork Reduction Act

This rule contains no reporting or recordkeeping requirements subject to the Paperwork Reduction Act of 1980 (Pub. L. 96–511). The existing information collection requirements contained in Regulations, 29 CFR Part 4 were previously approved by the Office of Management and Budget under OMB control number 1215–0150.

II. Background

On October 1, 1995, the Federal Acquisition Regulations were amended to implement provisions of the Federal Acquisition Streamlining Act (FASA). One provision of the final regulation, 48 CFR 12.504(a)(10), provided that the requirements of the McNamara-O'Hara Service Contract Act (SCA) are not applicable to subcontracts at any tier for the acquisition of commercial items or services.

After a subsequent review of the issue by the FAR Council the Administrator for Federal Procurement Policy wrote to the Secretary of Labor and requested that the Department propose an exemption for a more limited group of commercial service contracts (both prime contracts and subcontracts). The Administrator stated that the FAR Council had concluded that a blanket exemption of all subcontracts for commercial items may not adequately serve the Administration's policy of supporting exemptions of the SCA only where they do not undermine the purposes for which the SCA was enacted. Therefore the FAR Council agreed that any exemption from the coverage of SCA for subcontracts for the acquisition of commercial items or components should be accomplished under the Secretary of Labor's authority in the SCA, and stated that it would withdraw the FAR provision.

The FAR Council indicated that the adoption of their recommendations will further the commitment of the Administration to be more commercial-like, encourage broader participation in government procurement by companies doing business in the commercial sector, and reinforce their commitment to reduce government-unique terms and conditions from their contracts. Furthermore, the FAR Council represented that the limited exemptions that it proposed could be accomplished without compromising the remedial purpose of the SCA to protect prevailing labor standards.

The Department of Labor has reviewed the requested exemptions and the representations of the FAR Council and has concluded that a sufficient showing has been made to propose to

implement the exemptions requested by the FAR Council. Based on the representations, the Department has preliminarily determined that the exemption would meet the requirements of Section 4(b) of the Act that exemptions be necessary and proper in the public interest or to avoid serious impairment of Government business, and in accord with the remedial purpose of the SCA to protect prevailing labor standards. Comments are requested on this determination.

Contemporaneously with publication of this NPRM in the **Federal Register**, the FAR Council is publishing a final rule removing the SCA from the list of laws inapplicable to subcontracts for commercial items, currently in the FAR at 48 CFR 12.504(a)(10). As a result, a small group of commercial subcontracts that were previously exempted under the FAR rule and that also meet the requirements of DOL's proposed rule could change from exempt to nonexempt and back to exempt if the DOL proposal becomes final as it is currently proposed. To prevent the disruption that could be caused by such changes, including the possible disruption of services if the current subcontractor does not agree to continue the subcontract services under the requirements of SCA, the Department has published a final rule in today's **Federal Register**, temporarily exempting from the SCA those commercial subcontracts which meet the criteria of this NPRM. This final rule will remain in effect for one year from today's date or until the Department completes its rulemaking on this NPRM, whichever occurs first. The Department notes that it intends to proceed expeditiously with this rulemaking and anticipates that a final rule, after review of all of the comments, will be issued within six months.

III. Summary of the Proposed Exemptions

This proposal, as requested by the FAR Council, addresses two separate but somewhat related issues. First, the current exemption for the maintenance and repair of Automated Data Processing (ADP) equipment, 29 CFR 4.123(e)(1), is proposed to be modified to reflect terminology changes in law that have occurred since the exemption was originally established; broaden the exemption to cover information technology as currently defined; apply the exemption to installation services; and apply the exemption to subcontracts as well as prime contracts. Second, a new exemption is proposed, similar to the current ADP exemption, to exempt both prime contractors and subcontractors for a specified subset of commercial services that meet certain criteria.

Proposed Revision of the Current ADP Exemption

The Clinger-Cohen Act of 1996, Divisions D and E of Pub. L. 104–106, repealed the Brooks Automatic Data Processing Act, 40 U.S.C. 759, and set forth a new framework for the management and acquisition of information technology, replaced the ''ADP'' terminology originally in the Brooks ADP Act with ''information technology'' to reflect the convergence of ADP and telecommunications equipment and technology. See 40 U.S.C. 1401 *et seq.* This proposal would reflect this change in the regulations.

Further, as recommended by the FAR Council, the exemption would be updated to reflect the current statutory definition of ''information technology'' and be consistent with other regulations. As defined at 40 U.S.C. 1401(3) and incorporated in the FAR, 48 CFR 2.101, the term ''information technology,'' with respect to an executive agency, means ''any equipment or interconnected system or subsystem of equipment that is used in the automatic acquisition, storage, manipulation, management, movement, control, display, switching, interchange, transmission, or reception of data or information.'' Under this definition, equipment is considered to be used by an executive agency if the agency uses the equipment directly or if the equipment is used by a contractor under a contract which requires the use of such equipment, or requires the use of such equipment to a significant extent in the performance of a service or the furnishing of a product. The term ''information technology'' does not include any equipment that is acquired by a contractor incidental to a contract; or any equipment that contains imbedded information technology that is used as an integral part of the product, but the principal function of which is not the acquisition, storage, manipulation, management, movement, control, display, switching, interchange, transmission, or reception of data or information. For example, HVAC (heating, ventilation, and air conditioning) equipment such as thermostats or temperature control devices and medical equipment where information technology is integral to its operation, is not information technology.

This proposal would also add installation services to the current regulatory exemption where those services are not subject to the Davis-Bacon Act, 40 U.S.C. 276a *et seq.* See 29 CFR 4.116(c)(2). Service contracts often involve installation of information technology (IT) equipment, for example installing and maintaining a local area network, or installing and maintaining new telephones or a telephone system. The same employees are performing installation as are performing maintenance and repair services. Thus, the same conditions that support the exemption for the maintenance services also support an exemption for installation services, and the addition of installation services will simply reflect what is happening in the market place.

Finally, the current exemption would indicate that the exemption applies to subcontracts meeting the regulatory criteria as well as prime contracts. The Department requests comments on whether there is any reason that the exemption at the prime contract level should not apply equally to subcontracts which meet the criteria, as well as on the other proposed modifications to § 4.123(e)(1). Because the prime contractor is responsible for compliance with all of the contract requirements, including the SCA, if the Department determines that the exemption has been incorrectly applied to a subcontract, the proposed regulation provides that it may require that SCA stipulations be included in the subcontract effective as of the date of contract award.

New Exemption for Certain Commercial Service Contracts

In certain situations, an employee's work on a government contract represents a small portion of his or her time and the balance of the time is spent on commercial work. In such cases, the FAR Council represents that the Government loses the full benefits of competition for its service contracts because some contractors decline to compete for Government work due to specific government requirements. To remedy this situation, the FAR Council has recommended an exemption framework that it believes will protect prevailing labor standards and avoid the undercutting of such standards by contractors. The factual basis for the FAR Council's view that the proposed exemption is necessary and proper in the public interest or to avoid the serious impairment of Government business is set forth below. In addition, in order that the exemption comport with the statutory requirement that it be in accord with the remedial purposes of the Act to protect prevailing labor standards, the proposed regulation provides a number of criteria which must be satisfied. The rationale for these

criteria is also explained below. Comments are requested for each listed service as to whether the proposed exemption, given its criteria and limitations, is necessary and proper in the public interest or to avoid the serious impairment of Government business, and in accord with the remedial purpose of the SCA to protect prevailing labor standards.

As recommended by the FAR Council, this proposal would exempt from SCA a short list of services, when the procurement for those services meets the criteria below. The recommended criteria are intended to limit the exemption to those procurements where the services being procured are such that it would be more efficient and practical for an offeror to perform the services with a workforce that is not primarily assigned to the performance of government work. Thus, contracts for base support services where the work is performed by an on-site dedicated workforce would not meet the exemption criteria, and contracts where the services have been performed by a dedicated group of federal employees (A–76 procurements) would be unlikely to meet the exemption criteria since the nature of the services would not meet the requirement that the workers perform only a small part of their time on the contract; however, it is possible that some subcontracts for a portion of those services might meet the criteria for exemption.

The criteria are designed to ensure that the remedial purpose of the Act to protect prevailing labor standards is preserved. This would be accomplished in two ways. First, the proposed exemption would apply only when the contract award is not determined primarily upon the factor of cost. Therefore, the contractor providing the best service at a somewhat higher or lower cost would not be at a competitive disadvantage. Second, the criteria would limit the application of the exemption to circumstances where the nature of the procurement dictates that the most efficient and practical performance of the workload can be accomplished with a workforce that is not dedicated to working primarily on the Government contract. Thus, the competitive pressures upon employee wages that might exist if the services were performed by a workforce dedicated to the Government contract would not come into play on the contracts within the scope of the recommended exemption. Furthermore, even if a contractor might be inclined to reduce wages to secure the Government contract, the criteria would forbid that practice.

Under this proposal, the following criteria for the new exemption would be applied to a short list of services. The exemption would apply only if the services under the contract or subcontract meet all of the criteria. The Department seeks comments regarding whether these criteria are appropriate to protect prevailing labor standards.

(1) The services under the contract are commercial—*i.e.,* they are offered and sold regularly to non-Governmental customers, and are provided by the contractor (or subcontractor in the case of an exempt subcontract) to the general public in substantial quantities in the course of normal business operations.

The basic underlying purpose of the proposed exemption is to permit a prospective contractor to utilize its commercial compensation practices for both Government and private commercial work. If the prospective contractor does not currently perform the solicited services, then conforming to the SCA requirements would not cause the contractor to alter its commercial compensation practices.

(2) The prime contract or subcontract will be awarded on a sole source basis or the contractor will be selected for award on the basis of other factors in addition to price. In such cases, price must be equal to or less important than the combination of other non-price or cost factors in selecting the contractor.

One of the basic purposes of the Service Contract Act is to counteract the negative impact that competition based on price alone may have upon wages. If a contract is awarded on a sole source basis, there is no competition and price is clearly not the basis for awarding the contract.

For the majority of other contracts that are competitively awarded, this criterion would attempt to largely remove wages from consideration by making quality of service and other non-cost factors equal to or more important than the bottom line price. If one assumes that the best employees (contractors) are paid (pay) higher wages, then this criterion would allow these employees (contractors) to compete on the basis of the employees' increased productivity and higher quality service. These employees/contractors should not be disadvantaged even though the employee wages and possibly the resulting contract price are somewhat higher than the lowest offer.

(3) The prime contract or subcontract services are furnished at prices which are, or are based on, established catalog or market prices. An established price is a price included in a catalog, price list, schedule, or other form that is regularly maintained by the contractor, is either published or otherwise available for inspection by customers, and states prices at which sales are currently, or were last, made to a significant number of buyers constituting the general public. An established market price is a current price, established in the usual course of trade between buyers and sellers free to bargain, which can be substantiated from sources independent of the manufacturer or contractor. Normally, market price information is taken from independent market reports, but market price could be established by surveying the firms in a particular industry or market.

This criterion ensures that the contractor will provide the services to the Government on the same basis that the contractor services commercial accounts. Combined with the other criteria, this requirement should ensure that contractors do not decrease employee compensation as a part of the competitive contracting process.

(4) All of the service employees who will perform the services under the Government contract or subcontract spend only a small portion of their time (a monthly average of less than 20 percent of the available hours on an annualized basis, or less than 20 percent of available hours during the contract period if the contract period is less than a month) servicing the Government contract.

If the employees spend only a small portion of their available work hours on the Government contract, the contractor would not likely be willing to alter its compensation practices simply to obtain the Government contract. (Note: Criterion 5 would also specifically preclude any such change in compensation practices.) Furthermore, the criteria for exemption will not be satisfied by rotating the workforce and having different employees work on the contract each day of the week. In the Department's experience it would be extraordinary for a contractor to staff a contract in this manner. Therefore in such a case, although each individual employee would spend less than 20% of his/her work hours on the Government contract, a contracting officer or prime contractor (in the case of a subcontract) could not certify—as required by Criterion 6—that all or nearly all offerors would staff the contract with service employees who spend only a small portion of their time on the project.

(5) The contractor utilizes the same compensation (wage and fringe benefits) plan for all service employees performing work under the contract or subcontract as the contractor uses for these employees and for equivalent

employees servicing commercial customers.

This criterion ensures that the employees servicing the government contract will be compensated exactly as they would be if they were servicing a commercial account. Thus, the prevailing labor standards for private work would not be impacted in any way by the award of the Government contract. Furthermore, because contract award is not determined primarily on the basis of cost (Criterion 2), the contractor paying the lowest wages will not have a competitive advantage over other employers who pay average or above average wages. These contractors will compete for the Government work on the same basis that they compete for private work: quality of service and overall value.

(6) The contracting officer (or prime contractor with respect to a subcontract) determines in advance, based on the nature of the contract requirements and knowledge of the practices of likely offerors, that all or nearly all offerors will meet the above requirements. If the services are currently being performed under contract, the contracting officer or prime contractor shall consider the practices of the existing contractor in making a determination regarding the above requirements.

This requirement is designed to ensure that all contractors compete on an equal basis, and eliminate the possibility that a contractor subject to SCA would be forced to compete against a contractor that would be exempt from SCA. Furthermore, as noted in the discussion of Criterion 4, this requirement, which takes into consideration not only the practices of likely offerors but also the nature of the contract requirements, is a necessary safeguard to prevent individual offerors from juggling staffing patterns simply in an effort to avoid SCA coverage. This criterion also serves to protect those employees (either contractor or Federal employees) who might currently be engaged in performing the solicited services on a full-time basis.

(7) The exempted contractor or subcontractor certifies in the contract to the provisions in paragraphs (1), and (3) through (5). The contracting officer or prime contractor, as appropriate, shall review available information concerning the contractor or subcontractor and the manner in which the contract will be performed. If the contracting officer or prime contractor has reason to doubt the validity of the certification, SCA stipulations shall be included in the contract or subcontract.

This criterion provides a mechanism for addressing and correcting situations where the exemption may have been misapplied. (It is not anticipated that the contracting officer or prime contractor will do a complete investigation into the application of the exemption to the contractor, but rather will do a review based on known information regarding the contractor or subcontractor, including information submitted in the solicitation process.) Furthermore, if the Department of Labor, in its enforcement, determines that the contract is not in fact exempt, it shall require that SCA stipulations be included in the contract. In the case of a subcontract, the prime contractor, who in almost all cases will have SCA stipulations included in its contract, will be ultimately responsible for compliance with the requirements of the Act. The Department may therefore require that the SCA requirements be effective as of the date of contract award. The Department notes that an exempt contractor or subcontractor is not required to keep any particular records to meet its burden of showing that the criteria are satisfied.

The FAR Council has recommended that these criteria be applied only to a small group of commercial services which it believes would constitute the overwhelming majority of cases meeting the above criteria for the proposed exemption. The FAR Council and the Department of Labor agree that it is appropriate to consider comments not only regarding the services for which the exemption is being proposed, but also for any additional services that commenters believe should be added to the list. If sufficient justification is received for adding any additional services to the list, the Department of Labor will issue a proposal to add the new service. If the proposed rule is adopted in whole or in part, the final rule will not apply to any service for which the opportunity for public comment was not provided.

As recommended by the FAR Council, the proposed exemption would not be applied to any contract entered into under the Javits-Wagner-O'Day Act, or to any contract subject to the provisions of Section 4(c) of SCA. Furthermore, contracts for operation of a Government facility or a portion thereof would not meet the required criteria, and are also excluded from the proposed exemption; however, it is possible that some subcontracts under such procurements would be for the listed services, and would fall within the scope of the proposed exemption, provided all the criteria are met.

In selecting the services to which it believed the new exemption should apply, the FAR Council focused on services which the Government is having difficulty acquiring or for which the Government is getting limited competition, or where the Government is unable to acquire the quality of services needed because commercial sources are reluctant to do business with the Government, thereby causing impairment to Government business. The FAR Council stated that it avoided selecting services where the Government may be in a position to motivate the payment of less than prevailing wages by contractors striving to win Government contracts. The Department agrees that it is appropriate to propose to exempt such a limited group of services.

For each of the services included on the list of services to which the new exception would apply, the type of services covered is explained and the difficulties which the FAR Council stated have been encountered in procuring the services are cited.

Automatic data processing and telecommunications services.

For several years the Department of Labor regulations implementing the Service Contract Act have contained an exemption for contracts principally for the maintenance, calibration and/or repair of (1) automated data processing and office information/word processing systems; (2) scientific equipment and medical apparatus or equipment of microelectronic circuitry or other technology of at least similar sophistication; and (3) office/business machines not otherwise exempt where services are performed by the manufacturer or supplier of the equipment. In short, the current exemption applies exclusively to hardware maintenance when certain criteria are met. In addition to the recommendation that the current ADP exemption be expanded to include installation services as well as hardware maintenance, the FAR Council has recommended that an exemption for software and other ADP support services be considered in conjunction with the criteria listed above.

Provided the specified criteria are met, the proposed new exemption would cover a broader range of automatic data processing and telecommunications services including: ADP facility operation and maintenance services provided at the contractor's facility, ADP telecommunications and transmission services, ADP teleprocessing and timesharing services, ADP systems analysis services, information and data broadcasting or data distribution services, ADP backup and security services, ADP data conversion services, computer aided

design/computer aided manufacturing (CAD/CAM) services, digitizing services (including cartographic and geographic information), telecommunications network management services, automated news services, data services or other information services (*e.g.,* buying data, the electronic equivalent of books, periodicals, newspapers, etc.) and data storage on tapes, compact disks, etc. As recommended by the FAR Council, however, the new exemption would not apply to ADP data entry services or ADP optical scanning services.

The FAR Council explains that in this information age, the Federal Government is contracting for more and more information technology (IT) services. This is driven by the need to maximize the use of technology to improve the efficiency and effectiveness of agency performance. However, increasingly the Government is less of a player in the IT marketplace in terms of market share (less than 3%). IT providers have an abundance of work in an industry with a tight labor market. IT providers are often reluctant or unwilling to deal with Government unique requirements such as the Service Contract Act when they have an abundance of work available and are experiencing difficulty keeping pace with their commercial work.

The FAR Council states that unless the Federal Government can more closely align the Government's contracting practices and requirements with commercial practice, it will not be able to generate enough interest to permit the Federal Government to take full advantage of the opportunities to use information technology and to obtain the requisite quality of services needed to satisfy critical agency mission needs.

Automobile or other vehicle (*e.g.,* aircraft) maintenance services (other than contracts to operate a Government motor pool or similar facility).

Federal agencies that maintain a fleet of automobiles have a need for services such as normal maintenance (*e.g.,* changing oil and filters, rotating tires, etc.), mechanical repairs, paint and body work, glass replacement, and other repairs needed to maintain the automobile or other vehicle. Unless the agency has a dedicated Government facility for such work, it is contracted out to commercial firms.

The FAR Council states that the General Services Administration (GSA), which is responsible for providing Interagency Fleet Management Services, has been unsuccessful in contracting for these services because of the unwillingness of commercial sources to deal with Government unique requirements such as the Service Contract Act for the small amount of Government work involved. As a result, GSA and other agencies often acquire these services on an as needed basis using micro-purchase procedures and the Government Purchase Card.

The FAR Council states that unless GSA and other agencies can more closely align the Government's contracting practices and requirements with commercial practice, it will not be able to generate enough interest or business to permit the Federal Government to take advantage of the quality improvements and lower prices that will likely result from establishing contractual relationships with commercial service centers. While the individual transactions are small (typically under $2,500), the aggregate volume and dollar value of transactions across the nation is substantial. The real benefit for the Federal Government of a contractual relationship is the lower prices it can negotiate for parts and supplies used to service vehicles if it is able to contract for services rather than treat each transaction individually. Additionally, the Federal Government can expect to receive better service because it will be viewed as a ''corporate'' customer who gives its business to a particular contractor(s) in a certain location. The FAR Council states that an exemption is necessary to permit the Government to enhance the quality of service while reducing its cost through leveraging the Federal Government's collective buying power.

For example, the Department of Interior's Office of Aircraft Services in Boise, ID, contracts for maintenance of about 100 of its own aircraft and also provides contract support for other agencies such as the U.S. Forest Service. The Office of Aircraft Services reports that it has about a dozen contracts at various locations around the country. These are commercial services procured from commercial sources where the maintenance of Government aircraft is performed alongside regular non-government aircraft. Contractors' work is predominantly non-government. Some commercial contractors have refused to do work for the Government because of concerns with the SCA requirements. The result has been limited competition for such contracts.

Financial services involving the issuance and servicing of cards (including credit cards, debit cards, purchase cards, smart cards, and similar card services).

Increasingly, the Government is contracting for and using the services of financial institutions that provide credit, debit, or purchase cards. These cards are used by Federal employees while traveling or to make small purchases for commercial items to meet the day-to-day needs of their organizations. The providers of these services use the financial networks of firms like VISA, MASTERCARD, and American Express to provide the services. While the Federal Government's use of these services is significant, it represents a small fraction of the transactions that flow through the financial infrastructure. Transactions flowing through the networks are processed in the same fashion and by the same workforce regardless of the ultimate user of the cards. As a result, the FAR Council states that it is very difficult to get competition for these services when the Federal Government imposes unique requirements on the contractors. They state that contractors will not change their way of doing business to accommodate a customer that represents a small portion of their business; it is impossible for them to segregate what is done for the Federal Government from commercial activity.

Lodging at hotels/motels and contracts with hotels/motels for conferences, including lodging and/or meals, which are part of the contract for the conference.

Agencies of the Federal Government often contract with hotels/motels for meeting rooms for conferences of limited duration (*e.g.,* one to five days). These contracts may be for conferences where attendance is limited to Government employees or may involve attendance by other organizations and/or the public. These contracts may also involve furnishing lodging and meals to those participating in the conference.

In other cases, agencies establish contractual arrangements with hotels/motels to obtain special rates for lodging when the agency has a large number of employees that frequently travel to a particular location. The hotel/motel agrees to special reduced rates in exchange for being designated a preferred provider for the agency travelers to that city/location.

In both of these cases, the FAR Council states that hotels/motels are unwilling to agree to contract with the Government when it would mean they would have to pay different rates to employees as a result of a Service Contract Act wage determination or would have to keep special/different payroll or other records. Typically these contracts are for relatively small dollar amounts (less than $25,000). The FAR Council states that this severely limits the Governments ability to contract for these services when needed.

Maintenance services for all types of specialized building or facility equipment such as elevators, escalators, temperature control systems, security systems, smoke and/or heat detection equipment, etc.

Agencies that operate and maintain Government owned and/or operated buildings often contract for operation and maintenance of the building or facility and the prime contractor will then typically subcontract for services related to specialized equipment. In other cases, the Government will contract directly for the maintenance and servicing of such equipment. In either case, the FAR Council reports that it is very difficult to acquire the quality of service needed from contractors who are not authorized representatives of the manufacturer and therefore do not have access to parts needed for repairs and training that is essentially only available from the original equipment manufacturer. While there may be other contractors who indicate they have the capability to provide the service, experience often shows that the quality of service obtained from such sources is not satisfactory.

The FAR Council states that the Government, as a result of the reluctance of some of the best contractors to accept Government unique requirements such as those related to the Service Contract Act, is deprived of the opportunity to improve the quality of service for the maintenance and servicing of critical building equipment and systems.

Installation, maintenance, calibration or repair services for all types of equipment where services are obtained from the equipment manufacturer or supplier of the equipment.

Agencies acquire a wide range of equipment and often have a need to acquire services to install, maintain, calibrate, service or repair the equipment from the manufacturer or original supplier in order to avoid compromising a warranty or because proprietary information needed to perform the work is only available from the manufacturer, an authorized representative of the manufacturer or the supplier of the equipment. Typically, these contracts involve sophisticated equipment that requires access to proprietary information or requires employees involved in performing the work to have extensive training that is often only available through the manufacturer or equipment supplier. In such cases, the Government's need to contract with a particular source or a limited number of sources must be properly justified and approved, if applicable, under the statutory competition requirements outlined in 48 CFR Part 6 of the Federal Acquisition Regulation. Examples of the type of equipment include automated building control systems, HVAC equipment, building security systems, and elevators or escalators.

The FAR Council reports that in many of these cases, the Government has limited leverage to negotiate with the contractor to accept Government unique requirements such as those related to the Service Contract Act and has had great difficulty obtaining services from commercial sources who are unwilling to accommodate such requirements.

Transportation of persons by air, motor vehicle, rail, or marine on regularly scheduled routes or via standard commercial services (not including charter services).

The General Services Administration (GSA) enters into contracts with airlines called ''City Pairs'' so that Federal employees traveling on Government business can get discount air fares. Under these contracts, Federal employees typically obtain tickets through travel management contracts awarded by GSA or other agencies and the Federal employee travels on regularly scheduled routes of commercial airlines but receive tickets at a substantial discount. While the Federal Government's use of these services is significant, it represents a small fraction of the transactions that flow through the airlines. Tickets that are issued to Federal travelers flow through the same networks and are processed in the same fashion as other travelers. As a result, the FAR Council reports that it is very difficult to get competition for these services if the Federal Government imposes unique requirements like those in the Service Contract Act on the contractors. The airlines will not change their way of doing business to accommodate a customer that represents a small portion of their business. It is impossible for them to segregate what is done for the Federal Government from commercial activity. The Federal Government also enters into similar contracts for the carriage of passengers by other modes of transportation.

Real estate services, including real property appraisal services, related to housing federal agencies or disposing of real property owned by the Federal Government.

Federal agencies involved in acquiring and disposing of real property often contract for real estate services, including lease acquisition, real property appraisal, broker, space planning, lease re-negotiation, tax abatement, and real property disposal services. The primary classes of workers that are involved in performing the work are appraisers, leasing specialists, brokers, space planners, interior designers, fire safety engineers, and project managers. In many cases, the employees are required by contracts with the Government to be licensed. In many cases, the Department of Labor has not established wage determinations that apply to these classes of workers.

The individual requirements are typically relatively low dollar value (under $25,000) and require that services be performed in a variety of different geographic locations. Knowledge of the local real estate market is required to effectively perform the services. Therefore, individual employees, particularly in rural areas, spend only a small fraction of their time working on Government contracts.

While the Federal Government's use of these services is significant, it represents a small fraction of the transactions that flow through the industry/commercial sources. As a result, the FAR Council reports that it is very difficult to get competition for these services where the Federal Government imposes unique requirements like those in the Service Contract Act on the contractors. The contractors will not change their way of doing business to accommodate a customer that represents a small portion of their business. The FAR Council states that as the Government continues to downsize, it must rely more and more on commercial sources for these services and it is critical that the Federal Government has access to well-qualified sources of supply for these types of services.

Relocation services, including services of real estate brokers and appraisers, to assist federal employees or military personnel in buying and selling homes.

Employee relocation services are available for Federal employees or military personnel and their families being transferred to new duty stations anywhere within the continental United States and Puerto Rico. These contracts offer a multitude of flexible services to customize a solution that best meets the employee's needs. The contracts save time and money and reduce stress by offering Federal employees and military these services: home marketing assistance, home sales services, destination area services, management reporting services, mortgage counseling, property management services, and other related services.

The individual requirements are typically relatively low dollar value (under $25,000) and require that

services be performed in a variety of different geographic locations. Knowledge of the local real estate market is required to effectively perform the services. Therefore, individual employees, particularly in rural areas, spend a fraction of their time working on Government contracts.

While the Federal Government's use of these services is significant, the FAR Council states that it represents a small fraction of the transactions that flow through the industry/commercial sources. As a result, it is very difficult to get competition for these services if the Federal Government imposes unique requirements like those in the Service Contract Act on the contractors. The contractors will not change their way of doing business to accommodate a customer that represents a small portion of their business. The FAR Council states that it is in the Government's interest to maximize the availability of these services to its personnel; accordingly it is detrimental to the Government's interests when it is unable to attract commercial sources as providers of these services

IV. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, Public Law 96–354 (94 Stat. 1164; 5 U.S.C. 601 et. seq.), Federal Agencies are required to prepare and make available for public comment and initial regulatory flexibility analysis that describes the anticipated impact of proposed rules on small entities. The Department has prepared the following Regulatory Flexibility Analysis regarding this rule.

(1) Reasons Why Action Is Being Considered

The current proposal is made at the request of the Administrator for Federal Procurement Policy, OFPP, in her letter of May 12, 1999. The Administrator, on behalf of the FAR Council, stated that the proposed exemption ''will further the commitment of the Administration to be more commercial-like, encourage broader participation in government procurement by companies doing business in the commercial sector, and reinforce our commitment to reduce government-unique terms and conditions from our contracts. We believe that all of this can be accomplished without compromising the purpose of the SCA to protect prevailing labor standards.'' The FAR Council has developed a short list of services to which it believes an exemption should apply in the best interest of the Government and to avoid impairment to Government business. Based on the representations of the FAR Council, the Department has made a preliminary determination that such an exemption is appropriate, and therefore is issuing this proposed rule.

(2) Objectives of and Legal Basis for Rule

Pursuant to Section (4)(b) of SCA, the Secretary of Labor may grant reasonable exemptions to the provisions of the Act, but only in special circumstances where the ''exemption is necessary and proper in the public interest or to avoid the serious impairment of government business, and is in accord with the remedial purpose of this Act to protect prevailing labor standards.''

After a review of the representations of the FAR Council, the Department of Labor has made a preliminary determination that the exemption would be ''necessary and proper in the public interest'' and would also be ''in accord with the remedial purpose of th[e] Act to protect prevailing labor standards.'' Therefore the Department has determined that it is appropriate to seek comment on the proposed criteria and services which are proposed to be exempted from the Act.

(3) Number of Small Entities Covered Under the Rule

The definition of ''small business'' varies considerably depending upon the policy issues and circumstances under review, the industry being studied, and the measures used. The Small Business Administration's Office of Advocacy generally uses employment data as a basis for size comparisons, with firms having fewer than 100 employees or fewer than 500 employees defined as small. The types of services covered by the proposed exemptions span a variety of industries. Based upon analyses done by the U.S. Small Business Administration, Office of Advocacy, some of the industries affected by the proposed exemptions are characterized as ''large-business-dominated industries'' (*e.g.,* air transportation and business credit institutions) and others are characterized as ''small-business-dominated industries'' (*e.g.,* automotive repair and real estate).[1] Thus, at least some of the services covered by the proposed exemption would be performed primarily by small businesses. In fact, with the exception of those contracts for financial services involving the issuance and servicing of cards, the contracts for the transportation of persons, and contracts with equipment manufacturers, it would appear that a majority of the contracts affected by the proposed exemption likely would be performed by small businesses.

It is also difficult to determine with precision the value of Federal contracts that would be affected by the proposed exemption. Federal Procurement Data System (FPDS) compiles and reports information on approximately 500,000 annual transactions exceeding $25,000; however, as discussed above, many of the contracts covered by the proposed exemption (*e.g.,* food and lodging contracts for conferences) are currently or would likely be less that $25,000. Also, the criteria that must be met for the specified services to be within the scope of the proposed exemption will limit the application of the proposed exemptions to a relatively small subset of contracts within a specific SIC code. Thus, FPDS data does not provide an accurate estimate of the contracts potentially covered by the proposed exemption. Nevertheless, in view of the limiting criteria that have been proposed for the listed services, the total value of the exempt contracts should be relatively small, and it is believed that the SCA would no longer apply to only a relatively small number of contracts that currently contain SCA wage determination provisions.

(4) Reporting, Recordkeeping and Other Compliance Requirements of the Rule

The proposed exemption does not contain any new reporting, recordkeeping, or other compliance requirements applicable to small business. Rather, the proposed exemption would relieve small businesses and other contractors from the requirements of the SCA on certain contracts where the contractor certifies that the requirements of the exemption have been met. Furthermore, any contractor performing on a contract within the scope of the proposed exemption may elect to perform the contract under the requirements of SCA rather than make the necessary certifications. Because application of the exemption will have been determined in advance by the contracting officer, the Department anticipates that questions regarding proper application of the exemption will be rare. Contractors will not be required to maintain any records to support the exemption, although they may be required to furnish payroll and other existing records to the Department in the event of an investigation.

(5) Relevant Federal Rules Duplicating, Overlapping or Conflicting With the Rule

The Federal Acquisition Regulation provision regarding the application of

[1] The State of Small Business: A Report of the President, 1996 (1997).

SCA to subcontracts for commercial services has been withdrawn, and there are no Federal rules duplicating, overlapping or conflicting with the proposed exemption.

(6) Differing Compliance or Reporting Requirements for Small Entities

The proposed exemptions do not contain any differing compliance or reporting requirements for small entities.

(7) Clarification, Consolidation and Simplification of Compliance and Reporting Requirements

The proposed exemption does not impose any new reporting or recordkeeping requirements. Although offerors are required to certify that the criteria for exemption are met, offerors are not required to maintain records to support the certification. The certification, which can be submitted as part of the bid package, is an important element to satisfy the statutory requirement that exemptions be ''in accordance with the remedial purpose of the Act to protect prevailing labor standards.'' Contractors and subcontractors to whom the exemption applies will not be required to comply with the wage and reporting requirements of the SCA.

(8) Use of Other Standards

The Service Contract Act requires that any exemption be in accordance with the remedial purpose of the act to protect prevailing labor standards. The proposed exemptions are structured to satisfy this requirement; however, the exemption is not mandatory and any contractor may choose to perform the services in accordance with the SCA requirements.

(9) Exemption From Coverage for Small Entities

The proposed rule is an exemption from coverage under the Service Contract Act. The proposed exemption would apply equally to both small and large entities. In addition to protecting prevailing labor standards, a key element of SCA is to ensure that all bidders are on an equal footing, and the proposed exemption is consistent with that purpose.

V. Executive Order 12866 and 13132; § 202 of the Unfunded Mandates Reform Act of 1995; Small Business Regulatory Enforcement Fairness Act

This proposed rule is being treated as a ''significant regulatory action'' within the meaning of Executive Order 12866 because of the significant impact of this rule on other agencies. Therefore, the Office of Management and Budget has reviewed the proposed rule. However, the Department has determined that this proposed rule is not ''economically significant'' as defined in section 3(f)(1) of E.O. 12866, and therefore it does not require a full economic impact analysis under section 6(a)(3)(C) of the Order. Under the new exemption proposed by this rule, contracts would not be exempt unless price is equal to or less important than the combination of other non-price or cost factors in selecting the contractor. Therefore it is not anticipated that the changes proposed by this rule will have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, jobs, the environment, public health or safety, or State, local, or tribal governments or communities.

The Department has similarly concluded that this proposed rule is not a ''major rule'' requiring approval by the Congress under the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 801 *et seq.*). It will not likely result in (1) an annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets.

For purposes of the Unfunded Mandates Reform Act of 1995, this rule does not include any federal mandate that may result in excess of $100 million in expenditures by state, local and tribal governments in the aggregate, or by the private sector. Furthermore, the requirements of the Unfunded Mandates Reform Act, 2 U.S.C. 1532, do not apply here because the proposed rule does not include a ''Federal mandate.'' The term ''Federal mandate'' is defined to include either a ''Federal intergovernmental mandate'' or a ''Federal private sector mandate.'' 2 U.S.C. 658(6). Except in limited circumstances not applicable here, those terms do not include an enforceable duty which is ''a duty arising from participation in a voluntary program.'' 2 U.S.C. 658(7)(A). A decision by a contractor to bid on Federal service contracts is purely voluntary in nature, and the contractor's duty to meet Service Contract Act requirements arises ''from participation in a voluntary Federal program.''

The Department has also reviewed this rule in accordance with Executive Order 13132 regarding federalism, and has determined that it does not have ''federalism implications.'' The rule does not ''have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.''

VI. Document Preparation

This document was prepared under the direction and control of John R. Fraser, Deputy Administrator, Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor.

List of Subjects in 29 CFR Part 4

Administrative practice and procedures, Employee benefit plans, Government contracts, Investigations, Labor, Law enforcement, Minimum wages, Penalties, Recordkeeping requirements, Reporting requirements, wages.

Accordingly, for the reasons set out in the preamble, 29 CFR part 4 is proposed to be amended as set forth below:

PART 4—LABOR STANDARDS FOR FEDERAL SERVICE CONTRACTS

1. The authority citation for Part 4 continues to read as follows:

Authority: 41 U.S.C. 351, *et seq.*, 79 Stat. 1034, as amended in 86 Stat. 789, 90 Stat. 2358: 41 U.S.C. 38 and 39; 5 U.S.C. 301; and 108 Stat. 4101(c).

2. Section 4.123(e) is proposed to be amended by revising paragraph (e)(1)(i) introductory text and paragraphs (e)(1)(i)(A), (e)(1)(ii), (e)(1)(iii), (e)(1)(iv), and (e)(2) to read as follows:

§ 4.123 Administrative limitations, variances, tolerances, and exemptions.

* * * * *

(e) * * *

(1)(i) Prime contracts or subcontracts principally for the maintenance, calibration, repair, and/or installation (where the installation is not subject to the Davis-Bacon Act, as provided in § 4.116(c)(2) of this part) of:

(A) Information technology—The term ''information technology'' means any equipment or interconnected system or subsystem of equipment that is used in the automatic acquisition, storage, manipulation, management, movement, control, display, switching, interchange, transmission, or reception of data or information. The term information technology does not include equipment that contains imbedded information technology that is used as an integral part of the product, but the principal function of which is not the acquisition, storage, manipulation, management,

movement, control, display, switching, interchange, transmission, or reception of data or information. For example, HVAC (heating, ventilation, and air conditioning) equipment such as thermostats or temperature control devices and medical equipment where information technology is integral to its operation, are not information technology.

* * * * *

(ii) The exemptions set forth in this paragraph (e)(1) shall apply only under the following circumstances:

(A) The items of equipment are commercial items which are used regularly for other than Government purposes, and are sold or traded by the contractor (or subcontractor in the case of an exempt subcontract) in substantial quantities to the general public in the course of normal business operations;

(B) The prime contract or subcontract services are furnished at prices which are, or are based on, established catalog or market prices for the maintenance, calibration, repair, and/or installation of such commercial items. An ''established catalog price'' is a price included in a catalog, price list, schedule, or other form that is regularly maintained by the manufacturer or the contractor, is either published or otherwise available for inspection by customers, and states prices at which sales currently, or were last, made to a significant number of buyers constituting the general public. An ''established market price'' is a current price, established in the usual course of trade between buyers and sellers free to bargain, which can be substantiated from sources independent of the manufacturer or contractor; and

(C) The contractor utilizes the same compensation (wage and fringe benefits) plan for all service employees performing work under the contract as the contractor uses for these employees and equivalent employees servicing the same equipment of commercial customers;

(D) The contractor certifies in the contract or subcontract, as applicable, to the provisions in this paragraph (e)(1)(ii).

(iii)(A) Determinations of the applicability of this exemption to prime contracts shall be made in the first instance by the contracting officer prior to contract award. In making a judgment that the exemption applies, the contracting officer shall consider all factors and make an affirmative determination that all of the above conditions have been met.

(B) Determinations of the applicability of this exemption to subcontracts shall be made by the prime contractor prior to subcontract award. In making a judgment that the exemption applies, the prime contractor shall consider all factors and make an affirmative determination that all of the above conditions have been met.

(iv)(A) If the Department of Labor determines after award of the prime contract that any of the above requirements for exemption has not been met, the exemption will be deemed inapplicable, and the contract shall become subject to the Service Contract Act, effective as of the date of the Department of Labor determination. In such case, the corrective procedures in section 4.5(c)(2) of this part shall be followed.

(B) The prime contractor is responsible for compliance with the requirements of the Service Contract Act by its subcontractors, including compliance with all of the requirements of this exemption (see § 4.114(b) of this part). If the Department of Labor determines that any of the above requirements for exemption has not been met with respect to a subcontract, the exemption will be deemed inapplicable, and the prime contractor may be responsible for compliance with the Act, effective as of the date of contract award.

(2)(i) Prime contracts or subcontracts for the following services where the services under the contract or subcontract meet all of the criteria set forth in paragraph (e)(2)(ii) and are not excluded by paragraph (e)(2)(iii):

(A) Automated data processing and telecommunications services, including ADP facility operation and maintenance services provided at the contractor's facility, ADP telecommunications and transmission services, ADP teleprocessing and timesharing services, ADP systems analysis services, information and data broadcasting or data distribution services, ADP backup and security services, ADP data conversion services, computer aided design/computer aided manufacturing (CAD/CAM) services, digitizing services (including cartographic and geographic information), telecommunications network management services, automated news services, data services or other information services (e.g., buying data, the electronic equivalent of books, periodicals, newspapers, etc.) and data storage on tapes, compact disks, etc. This category does not include ADP data entry services or ADP optical scanning services;

(B) Automobile or other vehicle (e.g., aircraft) maintenance services (other than contracts to operate a Government motor pool or similar facility);

(C) Financial services involving the issuance and servicing of cards (including credit cards, debit cards, purchase cards, smart cards, and similar card services);

(D) Lodging at hotels/motels and contracts with hotels/motels for conferences, including lodging and/or meals, which are part of the contract for the conference;

(E) Maintenance services for all types of specialized building or facility equipment such as elevators, escalators, temperature control systems, security systems, smoke and/or heat detection equipment, etc;

(F) Maintenance, calibration, repair or installation (where the installation is not subject to the Davis-Bacon Act, as provided in § 4.116(c)(2) of this part) services for all types of equipment where the services are obtained from the manufacturer or supplier of the equipment;

(G) Transportation of persons by air, motor vehicle, rail, or marine vessel on regularly scheduled routes or via standard commercial services (not including charter services);

(H) Real estate services, including real property appraisal services, related to housing federal agencies or disposing of real property owned by the Federal Government; and

(I) Relocation services, including services of real estate brokers and appraisers to assist federal employees or military personnel in buying and selling homes.

(ii) The exemption set forth in this paragraph (e)(2) shall apply to the services listed in paragraph (e)(2)(i) of this section only when all of the following criteria are met:

(A) The services under the prime contract or subcontract are commercial—*i.e.,* they are offered and sold regularly to non-Governmental customers, and are provided by the contractor (or subcontractor in the case of an exempt subcontract) to the general public in substantial quantities in the course of normal business operations;

(B) The prime contract or subcontract will be awarded on a sole source basis or the contractor or subcontractor will be selected for award on the basis of other factors in addition to price. In such cases, price must be equal to or less important than the combination of other non-price or cost factors in selecting the contractor.

(C) The prime contract or subcontract services are furnished at prices which are, or are based on, established catalog or market prices. An established price is a price included in a catalog, price list, schedule, or other form that is regularly maintained by the contractor or

subcontractor, is either published or otherwise available for inspection by customers, and states prices at which sales are currently, or were last, made to a significant number of buyers constituting the general public. An established market price is a current price, established in the usual course of trade between buyers and sellers free to bargain, which can be substantiated from sources independent of the manufacturer or contractor. Normally, market price information is taken from independent market reports, but market price could be established by surveying the firms in a particular industry or market;

(D) All of the service employees who will perform the services under the Government contract or subcontract spend only a small portion of their time (a monthly average of less than 20 percent of the available hours on an annualized basis, or less than 20 percent of available hours during the contract period if the contract period is less than a month) servicing the government contract or subcontract;

(E) The contractor utilizes the same compensation (wage and fringe benefits) plan for all service employees performing work under the contract or subcontract as the contractor uses for these employees and for equivalent employees servicing commercial customers;

(F) The contracting officer (or prime contractor with respect to a subcontract) determines in advance, based on the nature of the contract requirements and knowledge of the practices of likely offerors, that all or nearly all offerors will meet the above requirements. If the services are currently being performed under contract, the contracting officer or prime contractor shall consider the practices of the existing contractor in making a determination regarding the above requirements; and

(G) The exempted contractor certifies in the prime contract or subcontract to the provisions in paragraphs (e)(2)(ii)(A) and (C) through (E) of this section. The contracting officer or prime contractor, as appropriate, shall review available information concerning the contractor or subcontractor and the manner in which the contract will be performed. If the contracting officer or prime contractor has reason to doubt the validity of the certification, SCA stipulations shall be included in the contract or subcontract.

(iii)(A) If the Department of Labor determines after award of the prime contract that any of the above requirements for exemption has not been met, the exemption will be deemed inapplicable, and the contract shall become subject to the Service Contract Act, effective as of the date of the Department of Labor determination. In such case, the corrective procedures in § 4.5(c)(2) of this part shall be followed.

(B) The prime contractor is responsible for compliance with the requirements of the Service Contract Act by its subcontractors, including compliance with all of the requirements of this exemption (see § 4.114(b) of this part). If the Department of Labor determines that any of the above requirements for exemption has not been met with respect to a subcontract, the exemption will be deemed inapplicable, and the prime contractor may be responsible for compliance with the Act, effective as of the date of contract award.

(iv) The exemption set forth in this paragraph (e)(2) does not apply to solicitations and contracts:

(A) Entered into under the Javits-Wagner-O'Day Act, 41 U.S.C. 47;

(B) For the operation of a Government facility or portion thereof (but may be applicable to subcontracts for services set forth in paragraph (3)(2)(ii) that meet all of he criteria of paragraph (e)(2)(ii)); or

(C) Subject to Section 4(c) of the Service Contract Act.

Signed at Washington, D.C., on this 19th day of July, 2000.

T. Michael Kerr,

Administrator, Wage and Hour Division.

[FR Doc. 00–18636 Filed 7–25–00; 8:45 am]

BILLING CODE 4510–27–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 3

RIN 2900–AK07

Signature by Mark

AGENCY: Department of Veterans Affairs.

ACTION: Proposed rule.

SUMMARY: This document proposes to amend the Department of Veterans Affairs (VA) regulation that explains how a claimant can use a mark or a thumbprint in place of a signature. The intended effect of this amendment is to present the existing regulation in ''plain language'' and to remove an obsolete manual provision from VA's Adjudication Procedure Manual, M21–1.

DATES: Comments must be received on or before September 25, 2000.

ADDRESSES: Mail or hand deliver written comments to: Director, Office of Regulations Management (02D), Department of Veterans Affairs, 810 Vermont Ave., NW., Room 1154, Washington, DC 20420; or fax comments to (202) 273–9289; or e-mail comments to *OGCRegulations@mail.va.gov.* Comments should indicate that they are submitted in response to ''RIN 2900–AK07.'' All comments received will be available for public inspection in the Office of Regulations Management, Room 1158, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday (except holidays).

FOR FURTHER INFORMATION CONTACT: Candice Weaver, Consultant, Advisory and Court of Appeals for Veterans Claims Staff, Compensation and Pension Service, or Bob White, Team Leader, Plain Language Regulations Project, Veterans Benefits Administration, 810 Vermont Avenue, NW., Washington, DC 20420, telephone 202/273–7235 and 202/273–7228 respectively.

SUPPLEMENTARY INFORMATION: VA proposes to rewrite 38 CFR 3.113 in plain language. This regulation explains VA's requirements for the use of a mark or thumbprint in place of a signature. It is currently located under subpart A of part 3. We propose to create new § 3.2130 to restate the current regulation, incorporating its provisions with no substantive changes. The proposed section would be located in new Subpart D, Universal Adjudication Rules. We are also proposing new § 3.2100, which will specify the scope of applicability of the provisions in subpart D.

The Adjudication Procedure Manual, at M21–1, part IV, ch. 29, paragraph b(2), instructs that Eligibility Verification Reports (EVR) signed by mark or thumbprint must be accompanied by a separate sheet of paper that includes a certification that the information contained on the form is true and correct. In the past, income questionnaire forms included a statement certifying the accuracy of the information provided. When the forms were changed to small cards, a separate sheet of paper was needed for the signatures and addresses of the witnesses to the claimants' marks or thumbprints, and the certification statement. Current EVR forms are larger and they do not include certification statements. Rather, they include a caution regarding the willful submission of false information. VA believes the requirement for a separate sheet of paper containing a certification statement is now obsolete and proposes to formally withdraw paragraph b(2) from the Adjudication Procedure Manual.

Proposed section 3.2130, paragraph (c) eliminates reference to the VA Form 4505 series as giving authority to VA employees to certify signatures by mark or thumbprint and substitutes a reference to 38 CFR 2.3. It is regulations, not forms, that give certain VA employees the authority to take affidavits, administer oaths, and certify documents. The regulations are also more readily available to the general public than VA Forms are. We believe this change more clearly identifies the VA employees authorized to certify signatures by mark or thumbprint.

This rulemaking is partly a response to the Presidential Memorandum on Plain Language, dated June 1, 1998 (63 FR 31885–86), and addressed to the heads of executive departments and agencies. The memorandum stated the President's goal to make government more responsive, accessible, and comprehensible in its communications with the public. As an integral part of his program, the President urged departments and agencies to consider rewriting existing regulations in plain language when they have the opportunity and resources to do so.

This rulemaking also addresses commentary from the judicial branch. In *Zang* v. *Brown*, 8 Vet. App. 246, 255 (1995) (Steinberg, J., separate views), the Court of Appeals for Veterans Claims (the Court) pointed to a '''confusing tapestry' of VA regulations which should be the subject of review and reevaluation by the Secretary [of Veterans Affairs] with a view toward providing clear guidance for the adjudication of VA benefits claims.''

In response to the President's memorandum and the Court's commentary, VA has undertaken a long-term, comprehensive project to revise its adjudication regulations. The Plain Language Regulations Project is charged with reorganizing and rewriting in plain language the adjudication regulations in part 3 of title 38, Code of Federal Regulations. The project team will use Reader-Focused Writing techniques to the extent possible while remaining faithful to the policies and mandates expressed in current statutes, regulations, and case law.

Unfunded Mandates

The Unfunded Mandates Reform Act requires (in section 202) that agencies prepare an assessment of anticipated costs and benefits before developing any rule that may result in an expenditure by state, local, or tribal governments, in the aggregate, or by the private sector of $100 million or more in any given year. This final rule will have no consequential effect on state, local, or tribal governments.

Regulatory Flexibility Act

The Secretary certifies that the adoption of the proposed rule would not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. The proposed rule does not directly affect any small entities. Only VA beneficiaries could be directly affected. Therefore, pursuant to 5 U.S.C. 605(b), these amendments are exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

The catalog of Federal Domestic Assistance program numbers for this proposal includes 64.100, 64.101, 64.104, 64.105, 64.109, 64.110, and 64.127.

List of Subjects in 38 CFR Part 3

Administrative practice and procedure, Claims, Disability benefits, Health care, Pensions, Veterans, Vietnam.

Approved: July 13, 2000.

Togo D. West, Jr.,

Secretary of Veterans Affairs.

For the reasons set forth in the preamble, VA proposes to amend 38 CFR part 3 as follows:

PART 3—ADJUDICATION

Subpart A—Pension, Compensation, and Dependency and Indemnity Compensation

1. The authority citation for part 3, subpart A continues to read as follows:

Authority: 38 U.S.C. 501(a), unless otherwise noted.

§ 3.113 [Removed]

2. Section 3.113 is removed.

Subpart C—[Reserved]

3. Subpart C is added and reserved.

4. A new Subpart D is added to read as follows:

Subpart D—Universal Adjudication Rules That Apply to Benefit Claims Governed by Part 3 of This Title

General

Sec.

Subpart D—Universal Adjudication Rules That Apply to Benefit Claims Governed by Part 3 of This Title

Authority: 38 U.S.C. 501(a), unless otherwise noted.

General

§ 3.2100 Scope of Applicability.

Unless otherwise specified, the provisions of this subpart apply only to claims governed by part 3 of this title.

(Authority: 38 U.S.C. 501(a))

§ 3.2130 Will VA accept a signature by mark or thumbprint?

VA will accept signatures by mark or thumbprint if:

(a) They are witnessed by two people who sign their names and give their addresses, or

(b) They are certified by a notary public or any other person having the authority to administer oaths for general purposes, or

(c) They are certified by a VA employee who has been delegated authority by the Secretary under 38 CFR 2.3.

(Authority: 38 U.S.C. 5101)

[FR Doc. 00–18688 Filed 7–25–00; 8:45 am]

BILLING CODE 8320–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 50, 52 and 81

[FRL–6841–1]

RIN 2060–AJ05

Rescinding the Finding That the Pre-existing PM–10 Standards are No Longer Applicable in Northern Ada County/Boise, Idaho

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed Rule; extension of comment period.

SUMMARY: Today, EPA is hereby extending the closing date of the public comment period regarding EPA's notice of proposed rulemaking ''Rescinding the Finding that the Pre-existing PM–10 Standards are No Longer Applicable in Northern Ada County/Boise, Idaho,'' published June 26, 2000 at 65 FR 39321. The original comment period was to close on July 26, 2000. The new closing date will be August 31, 2000. The EPA is soliciting comments on this proposal and one of the comments we've received asks for an extension of the public comment period. Due to the complexity of the issues surrounding the action

EPA is proposing to take, we find it appropriate that we provide additional time for interested and affected parties to submit comments. All comments received by EPA on or prior to August 31, 2000 will be considered in the development of a final rule.

DATES: All comments regarding EPA's notice of proposed rulemaking issued on June 26, 2000 must be received by EPA on or before close of business August 31, 2000 instead of July 26, 2000.

ADDRESSES: Comments should be submitted to:

On paper. Send paper comments (in duplicate, if possible) to the Air and Radiation Docket and Information Center (6102), Attention: Docket No. A–2000–13, U.S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW, Washington, DC 20460, telephone (202) 260–7548.

Electronically. Send electronic comments to EPA at: A-and-R-Docket@epa.gov. Avoid sending confidential business information (CBI). We accept comments as e-mail attachments or on disk. Either way, they must be in WordPerfect version 5.1, 6.1 or Corel 8 file format. Avoid the use of special characters and any form of encryption. You may file your comments on this proposed rule online at many Federal Depository Libraries. Be sure to identify all comments and data by docket number A–2000–13.

Public inspection. You may read the proposed rule (including paper copies of comments and data submitted electronically, minus anything claimed as CBI) at the Office of Air and Radiation Docket and Information Center located 3 at 401 M Street, SW, Washington, DC 20460. They are available for public inspection from 8 a.m. to 5:30 p.m., Monday through Friday, excluding legal holidays. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Questions about the proposal should be addressed to Gary Blais, Office of Air Quality Planning and Standards, Air Quality Strategies and Standards Division, Integrated Policy and Strategies Group, MD–15, Research Triangle Park, NC 27711, telephone (919) 541–3223 or e-mail to blais.gary@epa.gov. To ask about policy matters specifically regarding Northern Ada County/Boise, call Bonnie Thie, EPA Region 10, Office of Air Quality (OAQ–107), EPA, Seattle, Washington,(206) 553–1189.

Dated: July 19, 2000.

Henry C. Thomas, Jr.,

Acting Director, Office of Air Quality Planning and Standards.

[FR Doc. 00–18884 Filed 7–25–00; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[TX–125–1–7463b; FRL–6840–2]

Approval and Promulgation of Implementation Plans; Texas; Revisions to Emergency Episode Plan Regulations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA is proposing to approve revisions to the Texas Natural Resource Conservation Commission emergency episode plan regulations in the Texas State Implementation Plan (SIP). These revisions update statutory citations, update references to the commission, and change various wordings to improve readability.

In the ''Rules and Regulations'' section of this **Federal Register**, EPA is approving the State's SIP revision as a direct final rule without prior proposal because EPA views this as a noncontroversial revision and anticipates no adverse comment. The EPA has explained its reasons for this approval in the preamble to the direct final rule. If EPA receives no relevant adverse comment, EPA will not take further action on this proposed rule. If EPA receives relevant adverse comment, EPA will withdraw the direct final rule and it will not take effect. The EPA will address all public comments in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time.

DATES: Written comments must be received by August 25, 2000.

ADDRESSES: Written comments should be addressed to Mr. Thomas H. Diggs, Chief, Air Planning Section (6PD–L), at the EPA Region 6 Office listed below. Copies of documents relevant to this action are available for public inspection during normal business hours at the following locations. Anyone wanting to examine these documents should make an appointment with the appropriate office at least two working days in advance.

Environmental Protection Agency, Region 6, Air Planning Section (6PD–L), 1445 Ross Avenue, Dallas, Texas 75202–2733.

Texas Natural Resource Conservation Commission, Office of Air Quality, 12124 Park 35 Circle, Austin, Texas 78753.

FOR FURTHER INFORMATION CONTACT: Bill Deese of the EPA Region 6 Air Planning Section at (214) 665–7253 at the address above.

SUPPLEMENTARY INFORMATION: This document concerns revisions to the emergency episode plan regulations in the Texas SIP. For further information, please see the information provided in the direct final action that is located in the ''Rules and Regulations'' section of this **Federal Register** publication.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: July 14, 2000.

Julie Jensen,

Acting Regional Administrator, Region 6.

[FR Doc. 00–18788 Filed 7–25–00; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[PA158–4103b; FRL–6735–8]

Approval and Promulgation of Air Quality Implementation Plans; Commonwealth of Pennsylvania; Approval of Revisions to Volatile Organic Compounds Regulations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve the State Implementation Plan (SIP) revisions submitted by the Commonwealth of Pennsylvania. The revisions remove the alternate emission reduction limitations for the Minnesota Mining and Manufacturing Company (3M) located in Bristol, Pennsylvania, and make corrections to certain VOC regulations to make them consistent with federal requirements. In the Final Rules section of this **Federal Register**, EPA is approving the Commonwealth's SIP submittal as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this action, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule

based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time.

DATES: Comments must be received in writing by August 25, 2000.

ADDRESSES: Written comments should be addressed to David L. Arnold, Chief, Ozone and Mobile Sources Branch, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103, and the Pennsylvania Department of Environmental Resources, Bureau of Air Quality Control, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

FOR FURTHER INFORMATION CONTACT: Mrs. Kelly L. Bunker, (215) 814–2177, at the EPA Region III address above, or by e-mail at *bunker.kelly@epa.gov.*

SUPPLEMENTARY INFORMATION: For further information, please see the information provided in the direct final action, with the same title, that is located in the ''Rules and Regulations'' section of this **Federal Register** publication.

Dated: June 30, 2000.

Bradley M. Campbell,

Regional Administrator, Region III.

[FR Doc. 00–18786 Filed 7–25–00; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[FRL–6840–6]

INDIANA: Final Authorization of State Hazardous Waste Management Program Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA proposes to grant final authorization to the hazardous waste program revisions submitted by Indiana. In the ''Rules and Regulations'' section of this **Federal Register**, EPA is authorizing the State's program revisions as an immediate final rule without prior proposal because EPA views this action as noncontroversial and anticipates no adverse comments. The Agency has explained the reasons for this authorization in the preamble to the immediate final rule. If EPA does not receive adverse written comments, the immediate final rule will become effective and the Agency will not take further action on this proposal. If EPA receives adverse written comments, EPA will withdraw the immediate final rule and it will not take effect. EPA will then address public comments in a later final rule based on this proposal. EPA may not provide further opportunity for comment. Any parties interested in commenting on this action must do so at this time.

DATES: Written comments must be received on or before August 25, 2000.

ADDRESSES: Mail written comments to Gary Westefer, Indiana Regulatory Specialist, United States Environmental Protection Agency Region 5, DM–7J, 77 West Jackson Boulevard, Chicago, Illinois 60604, telephone (312) 886–7450. You can examine copies of the materials submitted by Indiana during normal business hours at the following locations: EPA Region 5 , contact Gary Westefer at the above address and telephone number; or Lynn West, Indiana Department of Environmental Management, 100 North Senate, Indianapolis, Indiana, 46206, telephone: (317) 232–3593.

FOR FURTHER INFORMATION CONTACT: Gary Westefer at (312) 886–7450.

SUPPLEMENTARY INFORMATION: For additional information, please see the immediate final rule published in the ''Rules and Regulations'' section of this **Federal Register**.

Dated: June 23, 2000.

Francis X. Lyons,

Regional Administrator, Region 5.

[FR Doc. 00–18790 Filed 7–25–00; 8:45 am]

BILLING CODE 6560–50–U

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Part 15

[USCG 1999–6097]

Federal Pilotage for Foreign-Trade Vessels in Maryland

AGENCY: Coast Guard, DOT.

ACTION: Notice of termination.

SUMMARY: The Coast Guard undertook this rulemaking to ensure that vessels under way on the navigable waterways within the State of Maryland are navigated by competent, qualified persons, knowledgeable in the local area and accountable to either the State or the Coast Guard. The rulemaking might have required that vessels engaged in foreign trade be under the direction and control of federally-licensed pilots when not under the direction and control of State-licensed pilots. The passage of Senate Bill (SB) 237 entitled ''State Board of Docking Masters'' by the General Assembly of Maryland, and the signing into law of the Bill, by the Governor of the State, have rendered a federal rule unnecessary.

DATES: On July 26, 2000, the Coast Guard terminates further rulemaking under docket number USCG 1999–6097.

FOR FURTHER INFORMATION CONTACT: LT Alan Blume, Project Manager, Waterways Management Division (G–MWP), (202) 267–0550.

SUPPLEMENTARY INFORMATION: Under 46 U.S.C. 8503(a), the Secretary of Transportation may require a federally-licensed pilot to be aboard a self-propelled vessel engaged in foreign trade and operating on the navigable waters of the United States when State law does not require a pilot. This requirement terminates under 46 U.S.C. 8503(b) when a State having jurisdiction establishes a superseding requirement for a State pilot and notifies the Secretary (in practice, the Coast Guard) of that fact. According to 46 CFR part 15, federal pilots must be aboard vessels engaged in foreign trade while operating on certain navigable waters within California, Hawaii, Massachusetts, and New York and New Jersey. The Coast Guard had determined that a similar rule was necessary for the waters of Maryland, particularly the Port of Baltimore. On October 21, 1999, it published the NPRM ''Federal Pilotage for Foreign-Trade Vessels in Maryland'' [64 FR 57620]. It also held a public meeting on March 1, 2000 [65 FR 6350] to gather comments. It purposely delayed action on this NPRM, allowing the State time to consider its own law on the issue of pilotage.

Commercial vessels transit the navigable waters of Maryland carrying various types of freight, oil, and hazardous substances and materials, as well as large quantities of bunkers. The previous law of Maryland [General Statutes of Maryland, § 11–501] required every foreign vessel and every domestic vessel sailing on register to use a State-licensed pilot, except when the vessel was under the control of a docking master while maneuvering during berthing or unberthing or was shifting within a port with tug assistance. The new Maryland law entitled ''State Board of Docking Masters'', removes the exemption and requires that all movements of foreign vessels and domestic vessels sailing on register

within waters of the State be under the direction of State-licensed pilots, accountable to the State.

Dated: July 19 2000.

Joseph J. Angelo,

Acting Assistant Commandant for Marine Safety and Environmental Protection.

[FR Doc. 00–18935 Filed 7–25–00; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AF20

Endangered and Threatened Wildlife and Plants; Notice of Public Informational Meetings and Public Hearings for the Proposal To Reclassify and Remove the Gray Wolf from the List of Endangered and Threatened Species and To Establish Three Special Regulations for Threatened Gray Wolves

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of public informational meetings and public hearings.

SUMMARY: The U.S. Fish and Wildlife Service (Service) announces the locations and times of public informational meetings that have been scheduled to provide information on the proposal to reclassify and delist the gray wolf and establish special regulations for threatened gray wolves. We are also announcing the locations and times of public hearings scheduled to receive verbal public comments on the proposal.

DATES: See **SUPPLEMENTARY INFORMATION**.

ADDRESSES: See **SUPPLEMENTARY INFORMATION**.

FOR FURTHER INFORMATION CONTACT: Direct all questions or requests for additional information to us by using the Gray Wolf Phone Line: 612–713–7337, facsimile: 612–713–5292, electronic mail: GRAYWOLFMAIL@FWS.GOV; the World Wide Web: HTTP://MIDWEST.FSW.GOV/WOLF; or write to: Gray Wolf Questions, U.S. Fish and Wildlife Service, Federal Building, 1 Federal Drive, Fort Snelling, Minnesota 55111–4056.

SUPPLEMENTARY INFORMATION: We will hold public informational meetings at the following locations in the Midwest. All meetings will use an open house format, including a slide presentation beginning every half hour.

St. Paul, Minnesota, on August 7, 2000, from 4:00 to 9:00 p.m. in the Upper Lobby of the Earl Brown Center, 1890 Buford Avenue, on the University of Minnesota St. Paul Campus.

Grand Rapids, Minnesota, on August 8, 2000, from 4:00 to 9:00 p.m. at the Sawmill Inn, 2301 S. Pokegama (State Route 169).

Black River Falls, Wisconsin, on August 15, 2000, from 4:30 to 9:30 p.m. at the Lunda Theater in the Black River Falls Middle School (behind Black River Falls High School), 1202 Pierce Street.

Madison, Wisconsin, on August 16, 2000, from 4:30 to 9:30 p.m. at Mitby auditorium in the Madison Area Technical College (near Madison Airport), 3550 Anderson Street.

Ashland, Wisconsin, on August 17, 2000, from 4:30 to 9:30 p.m. at the Northern Great Lakes Center, 29270 County Highway G (three miles west of Ashland).

Watersmeet, Michigan, on August 28, 2000, from 2 to 4 p.m. and 6 to 9 p.m. at the Ottawa National Forest Visitor Center, U.S. 2 and Highway 45.

Escanaba, Michigan, on August 29, 2000, from 2 to 4 p.m. and 6 to 9 p.m. at Bay de Noc Community College, Learning Resources Center, 2001 N. Lincoln Road.

Sault Ste. Marie, Michigan, on August 30, 2000, from 2 to 4 p.m. and 6 to 9 p.m. at the Cisler Student and Conference Center, Lake Superior State University, 650 W. Easterday Avenue.

East Lansing, Michigan, on August 31, 2000, from 2 to 4 p.m. and 6 to 9 p.m. at the Jack Breslin Student Events Center, Michigan State University, 1 Birch Road.

We will hold public informational meetings at the following locations in the Western states. All meetings will be held from 1:00 to 3:00 p.m. and from 6:00 to 8:00 p.m.

Spokane, Washington, on August 15, 2000, at the West Coast Grand Hotel (formerly Cavanaughs Inn at the Park), 303 West North River Drive.

Everett, Washington, on August 17, 2000, at the Holiday Inn and Conference Center, 101 128th Street SE.

Idaho Falls, Idaho, on August 22, 2000, at the West Coast Idaho Falls Hotel (formerly Cavanaughs on the Falls), 475 River Parkway.

Boise, Idaho, on August 24, 2000, at the Grove Hotel, 245 South Capitol Blvd.

Portland, Oregon, on August 29, 2000, at the Shilo Inn Portland Airport, 11707 NE Airport Way.

LaGrande, Oregon, on August 31, 2000, at the Blue Mountain Conference Center, 404 12th Street.

We will hold public hearings at the following locations in the Midwest.

Madison, Wisconsin, on October 10, 2000, from 6:00 to 9:00 p.m. at Mitby Auditorium in the Madison Area Technical College (near Madison Airport), 3550 Anderson Street.

Duluth, Minnesota, on October 18, 2000, from 6:00 pm to 9:00 pm in room 175 of the Life Sciences Building, Oakland Avenue, on the University of Minnesota Duluth Campus.

East Lansing, Michigan, on October 16, 2000, from 6 to 9 p.m. at the Communication Arts and Sciences Building, Room 147, (on the corner of) Red Cedar Road and Wilson Road, Michigan State University.

Marquette, Michigan, on October 17, 2000, from 6 to 9 p.m. at the Holiday Inn, 1951 U.S. 41 West.

We will hold public hearings at the following locations in the Western states. All hearings will be held from 1:00 to 3:00 p.m. and from 6:00 to 8:00 p.m.

Spokane, Washington, on October 17, 2000, at the West Coast Grand Hotel (formerly Cavanaughs Inn at the Park), 303 West North River Drive.

Everett, Washington, on October 19, 2000, at the Holiday Inn and Conference Center, 101 128th Street SE.

Portland, Oregon, on October 24, 2000, at the Shilo Inn Portland Airport, 11707 NE Airport Way.

LaGrande, Oregon, on October 26, 2000, the Blue Mountain Conference Center, 404 12th Street.

Boise, Idaho, on October 31, 2000, at the Grove Hotel, 245 South Capitol Blvd.

Idaho Falls, Idaho, on November 2, 2000, at the West Coast Idaho Falls Hotel (formerly Cavanaughs on the Falls), 475 River Parkway.

We will hold a combined public informational meeting and public hearing at the following location in the New England states. The public informational meeting will be held from 6:30 to 7:30 p.m. and the public hearing will be held from 7:30 to 9:30 p.m.

Orono, Maine, on October 12, 2000, at the Best Western Black Bear Inn and Conference Center, 4 Godfrey Boulevard.

Background

On July 13, 2000, we published a proposed regulation (65 FR 43450) to reclassify and remove the gray wolf from the list of Endangered and Threatened Wildlife and Plants. The proposal also includes three special regulations for those distinct population segments of gray wolves that would become threatened. This proposal would affect all of the conterminous 48 states except Minnesota. Due to the complexity and wide geographic scope

of the proposal, we are scheduling public informational meetings and public hearings at a number of locations. If we schedule additional public informational meetings or public hearings, we will publicize their times and locations in subsequent notices.

The purpose of the public informational meetings is to provide additional opportunities for the public to gain information and ask questions about the proposal. These informational sessions should assist interested parties in preparing substantive comments on the proposal.

The public hearings will be the only method for comments and data to be presented verbally for entry into the public record of this rulemaking and for our consideration during our final decision. Comments and data can also be submitted in writing or electronically, as described in the July 13, 2000, proposal, and at http://midwest.fws.gov/wolf.

Author

The author of this notice is Ronald L. Refsnider, U.S. Fish and Wildlife Service, Fort Snelling, Minnesota.

Authority: The authority for this notice is the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.).*

Dated: July 19, 2000.

Charles M. Wooley,

Assistant Regional Director, Ecological Services, Region 3, Fort Snelling, Minnesota.

[FR Doc. 00–18912 Filed 7–25–00; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 20

RIN 1018–AG22

Migratory Bird Hunting; Approval of Tungsten-Matrix Shot as Nontoxic for Hunting Waterfowl and Coots

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The U.S. Fish and Wildlife Service (Service or we) proposes to grant final approval of tungsten-matrix shot as nontoxic for hunting waterfowl and coots. Acute toxicity studies reveal no adverse effects over a 30-day period on mallards (*Anas platyrhynchos*) dosed with tungsten-matrix shot. Reproductive/chronic toxicity testing over a 150-day period indicated that tungsten-matrix administered to adult mallards did not adversely affect them or the offspring they produced. We also propose to remove 50 CFR Subpart M (Part 20—Migratory Bird Hunting)—Criteria and Schedule for Implementing Nontoxic Shot Zones for the 1987–88 and Subsequent Waterfowl Hunting Season because implementation of nontoxic shot zones in the United States was completed in 1991.

DATES: You should submit comments on the proposed rule no later than August 25, 2000.

ADDRESSES: You should send comments to the Chief, Division of Migratory Bird Management (DMBM), U.S. Fish and Wildlife Service, 1849 C Street, NW., ms 634–ARLSQ, Washington, DC 20240. You may inspect comments during normal business hours in Room 634, Arlington Square Building, 4401 N. Fairfax Drive, Arlington, Virginia.

FOR FURTHER INFORMATION CONTACT: Jon Andrew, Chief, Division of Migratory Bird Management, (703) 358–1714.

SUPPLEMENTARY INFORMATION: The Migratory Bird Treaty Act of 1918 (Act) (16 U.S.C. 703–712 and 16 U.S.C. 742 a–j) implements migratory bird treaties between the United States and Great Britain for Canada (1916 and 1996 as amended), Mexico (1936 and 1972 as amended), Japan (1972 and 1974 as amended), and Russia (then the Soviet Union, 1978). These treaties protect certain migratory birds from take, except as permitted under the Act. The Act authorizes the Secretary of the Interior to regulate take of migratory birds in the United States. Under this authority, the Fish and Wildlife Service controls the hunting of migratory game birds through regulations in 50 CFR part 20.

The purpose of this proposed rule is to allow the hunting public to use tungsten-matrix shot for hunting migratory birds. Accordingly, we propose to amend 50 CFR 20.21, which describes illegal hunting methods for migratory birds. Paragraph (j) of § 20.21 pertains to prohibited types of shot. In accordance with § 20.21(j)(2), tungsten-matrix shot (95.9 parts tungsten: 4.1 parts polymer with <1 percent residual lead) is legal as nontoxic shot for waterfowl and coot hunting for the 1999–2000 hunting season only. We propose to amend § 20.21(j) to allow permanent use of tungsten-matrix shot in the formulation described above.

Since the mid-1970s, we have sought to identify shot that does not pose a significant toxic hazard to migratory birds or other wildlife. Currently, only steel, bismuth-tin, tungsten-iron, and tungsten-polymer shot are approved as nontoxic. We previously granted temporary approval for tungsten-matrix shot during the 1998–99 (December 8, 1998; 63 FR 67619) and 1999–2000 (August 19, 1999; 64 FR 45400) migratory bird hunting seasons. Compliance with the use of nontoxic shot has increased over the last few years. We believe that compliance will continue to increase with the approval and availability of other nontoxic shot types.

Kent Cartridge Company has requested that we permanently approve tungsten-matrix shot as nontoxic for hunting waterfowl and coots. Kent's candidate shot is fabricated from what is described in their application as a mixture of powdered metals in a plastic polymer matrix whose density is comparable to that of lead. All component metals are present in their elemental form, not as compounds. The shot material being considered has a density of 10.8 grams/cm^3 and is composed of approximately 95.9 percent tungsten and 4.1 percent plastic polymers.

Kent's application for tungsten-matrix includes a description of the shot, a toxicological report (Thomas 1997), results of a 30-day toxicity study (Wildlife International, Ltd. 1998), and results of a 150-day reproductive/chronic toxicity study (Gallagher *et al.* 2000). The toxicological report incorporates toxicity information (a synopsis of acute and chronic toxicity data for mammals and birds, potential for environmental concern, and toxicity to aquatic and terrestrial invertebrates, amphibians, and reptiles) and information on environmental fate and transport (shot alteration, environmental half-life, and environmental concentration).

Toxicity Information

The toxicity of the plastic polymers in tungsten-matrix is negligible due to their insolubility. There is considerable difference between the toxicity of soluble and insoluble compounds of tungsten. Elemental tungsten, as found in tungsten-matrix shot, is virtually insoluble and is expected to be relatively nontoxic. Even though most toxicity tests reviewed were based on soluble tungsten compounds rather than elemental tungsten, there appears to be no basis for concern of toxicity to wildlife for tungsten-matrix shot via ingestion by fish or mammals (Bursian *et al.* 1996a, Bursian *et al.* 1996b; Bursian *et al.* 1999; Gigiema 1983; Karantassis 1924; Patty 1982; Industrial Medicine 1946).

Environmental Fate and Transport

Elemental tungsten is insoluble in water and, therefore, does not weather and degrade in the environment. Tungsten is very stable with acids and

does not easily form compounds with other substances. Preferential uptake by plants in acidic soil suggests uptake of tungsten when it has formed compounds with other substances rather than when it is in its elemental form (Kabata-Pendias and Pendias 1984).

Environmental Concentration

The estimated environmental concentration (EEC) for a terrestrial ecosystem was calculated based on 69,000 shot per hectare (Pain 1990), assuming complete erosion of shot material in 5 centimeters of soil. The EECs for tungsten and the two polymers found in tungsten-matrix are 25.7 milligram/kilogram (mg/kg), 4.2 mg/kg, and 0.14 mg/kg, respectively. The EEC for an aquatic ecosystem was calculated assuming complete erosion of the shot in 1 foot of standing water. The EECs in water for tungsten and the two plastic polymers found in tungsten-matrix shot are 4.2 milligram/liter (mg/L), 0.2 mg/L, and 0.02 mg/L, respectively.

Effects on Birds

An extensive literature review contained in the application provided information on the toxicity of elemental tungsten to waterfowl and other birds. Ringelman *et al.* (1993) orally dosed 20 8-week-old game-farm mallards with 12–17 (1.03 g average weight) tungsten-bismuth-tin pellets and monitored them for 32 days for evidence of intoxication. No birds died during the trial and gross lesions were not observed during the postmortem examinations. Examination of tissues did not reveal any evidence of toxicity or tissue damage, and tungsten was not detectable in kidney or liver samples. The authors concluded that tungsten-bismuth-tin shot presented virtually no potential for acute toxicity in mallards.

Kraabel *et al.* (1996) assessed the effects of embedded tungsten-bismuth-tin shot on mallards and concluded that tungsten-bismuth-tin was not acutely toxic when implanted in muscle tissue. Inflammatory reactions to tungsten-bismuth-tin shot were localized and had no detectable systemic effects on mallard health.

Ringelman *et al.* (1992) conducted a 32-day acute toxicity study that involved dosing game-farm mallards with a shot alloy of tungsten-bismuth-tin (39 percent tungsten, 44.5 bismuth, and 16.5 tin). No dosed birds died during the trial, and behavior was normal. Examination of tissues post-euthanization revealed no toxicity or damage related to shot exposure. This study concluded that ''* * * tungsten-bismuth-tin shot presents virtually no potential for acute intoxication in mallards under the conditions of this study.''

Nell (1981) fed laying chickens (*Gallus domesticus*) 0.4 or 1.0 grams/kg tungsten (contained in an unspecified salt compound) in a commercial mash for 5 months to assess reproductive performance. Weekly egg production was normal, and hatchability of fertile eggs was not affected. Exposure of chickens to large doses of tungsten either through injection or by feeding resulted in an increased tissue concentration of tungsten (Nell 1981). The loss of tungsten from the liver occurred in an exponential manner with a half-life of 27 hours. Death due to tungsten occurred when tissue concentrations increased to 25 milligram/gram of liver. Due to the insoluble nature of elemental tungsten contained in tungsten-matrix shot, it is not expected that such high levels of tungsten could be attained through ingestion of tungsten-matrix shot.

The two plastic polymers used in tungsten-matrix shot act as a physical matrix in which the tungsten is distributed as ionically bound fine particles. Most completely polymerized nylon materials are physiologically inert, regardless of the toxicity of the monomer from which they are made (Peterson 1977). A literature review did not reveal studies in which either of the two polymers were evaluated for toxicity in birds.

New Acute Toxicity Studies

Kent contracted with Wildlife International Ltd. to conduct an acute toxicity study of tungsten-matrix. The acute toxicity test is a short-term (30-day) study where ducks are dosed with shot and fed commercially available duck food. Survival, body weight, blood chemistry (hematocrit), bone (femur), and organ analysis are recorded.

Kent's 30-day dosing study (Wildlife International Ltd. 1998) included four treatment and one control group of game-farm mallards. Treatment groups were exposed to one of three different types of shot: eight No. 4 steel, eight No. 4 lead, or eight No. 4 tungsten-matrix; whereas the control group received no shot. The two tungsten-matrix treatment groups (1 group with a deficient diet, 1 group with a balanced diet) each consisted of 16 birds (8 males and 8 females); whereas remaining treatment and control groups consisted of 6 birds each (3 males and 3 females). All tungsten-matrix-dosed birds survived the test and showed no overt signs of toxicity or treatment-related effects on body weight. There were no differences in hematocrit or hemoglobin concentration between the tungsten-matrix treatment group and either the steel shot or control groups. No histopathological lesions were found during gross necropsy. In general, no adverse effects were seen in mallards given eight No.4 size tungsten-matrix shot and monitored over a 30-day period. Tungsten was found to be below the limit of detection in all samples of femur, gonad, liver, and kidney from treatment groups.

New Reproductive/Chronic Toxicity Study

Kent contracted with Wildlife International Ltd. to conduct a reproductive/chronic toxicity study of tungsten-matrix. The reproductive/chronic toxicity study is a long-term (150-day) study where ducks are dosed with shot and fed commercially available duck food. Survival, body weight, blood hematocrit, bone (femur), organ analysis, and reproductive performance are recorded.

The chronic toxicity/reproductive study revealed no adverse effects when mallards were dosed with eight No. 4 size tungsten-matrix shot and monitored over a 150-day period (Gallagher *et al.* 2000). At initiation of the test (day 0), and on days 31, 60, and 90, 21 male and 21 female adult mallards were orally dosed with 8 No. 4 tungsten-matrix shot. On the same days, 22 male and 22 female adult mallards were dosed with eight No. 4 steel shot (negative control group). An additional four male and four female mallards were dosed with a single No. 4 lead shot (positive control group). Two lead-dosed birds (one female, one male) died from lead toxicosis on days 10 and 17, respectively, during the study; whereas no mortalities occurred in the other test groups. Hematological and biochemical results from blood samples collected during tests revealed no biologically meaningful differences between the tungsten-matrix group and the steel shot control group. Low, but measurable, levels of tungsten were found in the livers of males from the tungsten-matrix group and in the femurs of females from all treatment groups. For all treatment groups, levels of tungsten were below the limit of detection in egg yolks and whites, and all tissues collected from offspring. Liver and kidney tissues collected for histopathological examination revealed no treatment-related abnormalities.

No significant differences occurred in egg production, fertility, or hatchability of eggs from birds dosed with tungsten-matrix when compared to steel-dosed ducks. No differences occurred in survival and body weight of ducklings from birds dosed with tungsten-matrix

when compared to ducklings from steel-dosed ducks. Blood measurements of ducklings from tungsten-matrix-dosed ducks were similar to measurements from ducklings from steel-dosed ducks. Overall, results of the 150-day study indicated that tungsten-matrix shot repeatedly administered to adult mallards did not adversely affect them, or the offspring they produced.

Nontoxic Shot Approval

The nontoxic shot approval process contains a tiered review system and outlines three conditions for approval of shot types. The first condition for nontoxic shot approval is toxicity testing. Based on the results of the toxicological report and the toxicity tests discussed above, we conclude that tungsten-matrix shot does not pose a significant danger to migratory birds or other wildlife.

The second condition for approval is testing for residual lead levels. Any shot with lead levels equal to or exceeding 1 percent will be considered toxic and, therefore, illegal. We have determined that the maximum environmentally acceptable level of lead in any nontoxic shot is trace amounts of <1 percent, and we have incorporated this requirement in the new approval process. Kent has documented that tungsten-matrix meets this requirement.

The third condition for approval involves law enforcement. In the August 18, 1995, **Federal Register** (60 FR 43314), we indicated our position that a noninvasive field detection device to distinguish lead from other shot types was an important component of the nontoxic shot approval process. At that time, we stated that final approval of bismuth-tin shot would be contingent upon the development and availability of a noninvasive field detection device (60 FR 43315). We incorporated a requirement for a noninvasive field detection device in the revised nontoxic shot approval process published on December 1, 1997 (62 FR 63608). The most common electronic field testing device used by wildlife law enforcement officers can distinguish shells containing tungsten-matrix from shells containing lead. Therefore, the tungsten-matrix application meets the final condition for approval.

As stated previously, this proposed rule would amend 50 CFR 20.21(j) by approving tungsten-matrix shot as nontoxic for hunting waterfowl and coots. It is based on the toxicological report, acute toxicity study, and the reproductive/chronic toxicity study submitted by Kent. Results of these studies indicate the absence of any deleterious effects of tungsten-matrix shot when ingested by captive-reared mallards. This proposed rule would also amend § 20.21(j) by removing paragraph (3), which pertains to the legal use of tin shot during the 1999–2000 hunting season. Because the 1999–2000 hunting season is over, this regulation is no longer in effect.

This proposed rule would further amend 50 CFR part 20, by removing and reserving subpart M-Criteria and Schedule for Implementing Nontoxic Shot Zones for the 1987–1988 and Subsequent Waterfowl Hunting Season. A need for this Subpart no longer exists, as implementation of nontoxic shot zones in the United States was completed in 1991. Nontoxic shot zones are defined in § 20.108 for the purpose of hunting waterfowl, coots, and certain other species as being the contiguous 48 United States, and the States of Alaska and Hawaii, the Territories of Puerto Rico and the Virgin Islands, and the territorial waters of the United States.

References

Bursian, S. J., M. E. Kelly, R. J. Aulerich, D. C. Powell, and S. Fitzgerald. 1996a. Thirty-day dosing test to assess the toxicity of tungsten-iron shot in game-farm mallards. Report to Federal Cartridge Co. 77 pp.

Bursian, S. J., M. E. Kelly, R. J. Aulerich, D. C. Powell, and S. Fitzgerald. 1996b. Thirty-day dosing test to assess the toxicity of tungsten-polymer shot in game-farm mallards. Report to Federal Cartridge Co. 71 pp.

Bursian, S. J., R. M. Mitchell, R. J. Tempelman, R. J. Aulerich, and S. D. Fitzgerald. 1999. Chronic dosing study to assess the health and reproductive effects of tungsten-iron and tungsten-polymer shot on game-farm mallards. Report to Federal Cartridge Co. 115 pp.

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Ringelman, J. K., M. W. Miller, and W. F. Andelt. 1993. Effects of ingested tungsten-bismuth-tin shot on captive mallards. J. Wildl. Manage. 57:725–732.

Thomas, V.G. 1997. Application for approval of tungsten-matrix shot as non-toxic for the hunting of migratory birds. 39 pp.

Wildlife International, Ltd. 1998. Tungsten-matrix shot: An oral toxicity study with the mallard. Project No. 475–101. 162 pp.

NEPA Consideration

In compliance with the requirements of section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(C)), and the Council on Environmental Quality's regulation for implementing NEPA (40 CFR 1500–1508), we prepared a draft Environmental Assessment (EA) for approval of tungsten-matrix shot in May 2000. The EA is available to the public at the location indicated under the **ADDRESSES** caption.

Endangered Species Act Considerations

Section 7 of the Endangered Species Act (ESA) of 1972, as amended (16 U.S.C. 1531 *et seq.*), provides that Federal agencies shall ''insure that any action authorized, funded or carried out * * * is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of (critical) habitat * * * '' We are completing a Section 7 consultation under the ESA for this proposed rule. The results of our Section 7 consultation will be available to the public at the location indicated under the **ADDRESSES** caption.

Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*) requires the preparation of flexibility analyses for rules that will have a significant effect on a substantial number of small entities, which includes small businesses, organizations, or governmental jurisdictions. This rule proposes to approve an additional type of nontoxic shot that may be sold and used to hunt migratory birds; this proposed rule would provide one shot type in addition to the existing four that are approved. We have determined, however, that this proposed rule will have no effect on small entities since the approved shot merely will supplement nontoxic shot already in commerce and available throughout the retail and wholesale distribution systems. We anticipate no dislocation or other local effects, with regard to hunters and others.

Executive Order 12866

This proposed rule is not a significant regulatory action subject to Office of Management and Budget (OMB) review under Executive Order 12866. OMB makes the final determination under E.O. 12866.

E.O. 12866 requires each agency to write regulations that are easy to understand. We invite comments on how to make this rule easier to understand, including answers to questions such as the following: (1) Are the requirements in the rule clearly stated? (2) Does the rule contain technical language or jargon that interferes with its clarity? (3) Does the format of the rule (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce its clarity? (4) Would the rule be easier to understand if it were divided into more (but shorter) sections? (5) Is the description of the rule in the **SUPPLEMENTARY INFORMATION** section of the preamble helpful in understanding the rule? What else could we do to make the rule easier to understand?

Paperwork Reduction Act

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. We have examined this regulation under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501) and found it to contain no information collection requirements. However, we do have OMB approval (1018–0067; expires 08/30/2000) for information collection relating to what manufacturers of shot are required to provide to us for the nontoxic shot approval process. For further information see 50 CFR 20.134.

Unfunded Mandates Reform

We have determined and certify pursuant to the Unfunded Mandates Reform Act, 2 U.S.C. 1502, *et seq.*, that this proposed rulemaking will not impose a cost of $100 million or more in any given year on local or State government or private entities.

Civil Justice Reform—Executive Order 12988

We, in promulgating this proposed rule, have determined that these proposed regulations meet the applicable standards provided in Sections 3(a) and 3(b)(2) of Executive Order 12988.

Takings Implication Assessment

In accordance with Executive Order 12630, this proposed rule, authorized by the Migratory Bird Treaty Act, does not have significant takings implications and does not affect any constitutionally protected property rights. This proposed rule will not result in the physical occupancy of property, the physical invasion of property, or the regulatory taking of any property. In fact, this proposed rule allows hunters to exercise privileges that would be otherwise unavailable and, therefore, reduces restrictions on the use of private and public property.

Federalism Effects

Due to the migratory nature of certain species of birds, the Federal Government has been given responsibility over these species by the Migratory Bird Treaty Act. This proposed rule does not have a substantial direct effect on fiscal capacity, change the roles or responsibilities of Federal or State governments, or intrude on State policy or administration. Therefore, in accordance with Executive Order 13132, these proposed regulations do not have significant federalism effects and do not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Government-to-Government Relationship With Tribes

In accordance with the President's memorandum of April 29, 1994, ''Government-to-Government Relations with Native American Tribal Governments'' (59 FR 22951) and 512 DM 2, we have evaluated possible effects on Federally recognized Indian tribes and have determined that there are no effects.

List of Subjects in 50 CFR Part 20

Exports, Hunting, Imports, Reporting and recordkeeping requirements, Transportation, Wildlife.

Accordingly, we propose to amend part 20, subchapter B, chapter I of Title 50 of the Code of Federal Regulations as follows:

PART 20—[AMENDED]

1. The authority citation for part 20 continues to read as follows:

Authority: 16 U.S.C. 703–712 and 16 U.S.C. 742 a-j.

2. Section 20.21 is amended by revising paragraph (j) in its entirety to read as follows:

20.21 What hunting methods are illegal?

* * * * *

(j) While possessing shot (either in shotshells or as loose shot for muzzleloading) other than steel shot, or bismuth-tin (97 parts bismuth: 3 parts tin with <1 percent residual lead) shot, or tungsten-iron (40 parts tungsten: 60 parts iron with <1 percent residual lead) shot, or tungsten-polymer (95.5 parts tungsten: 4.5 parts Nylon 6 or 11 with <1 percent residual lead) shot, or tungsten-matrix (95.9 parts tungsten: 4.1 parts polymer with <1 percent residual lead) shot, or such shot approved as nontoxic by the Director pursuant to procedures set forth in § 20.134, provided that this restriction applies only to the taking of Anatidae (ducks, geese, [including brant] and swans), coots (Fulica americana) and any species that make up aggregate bag limits during concurrent seasons with the former in areas described in § 20.108 as nontoxic shot zones.

Subpart M—[Removed and Reserved]

3. Remove and reserve subpart M, consisting of §§ 20.140 through 20.143.

Dated: July 14, 2000.

Stephen C. Saunders,

Deputy Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 00–18806 Filed 7–25–00; 8:45 am]

BILLING CODE 4310–55–P

Notices

Federal Register
Vol. 65, No. 144
Wednesday, July 26, 2000

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

California Coast Provincial Advisory Committee (PAC)

AGENCY: Forest Service, USDA.

ACTION: Request for nominations of people to serve on the California Coast Provincial Advisory Committee.

SUMMARY: The federal government interagency group responsible for implementing the Northwest Forest Plan (NFP) in the California Coast Province is seeking nominations for persons to fill two vacant positions on the California Coast Provincial Advisory Committee (CCPAC)—one to represent the large forest products industry, and one to represent tourism interests to help achieve the implementation of the NFP.

SUPPLEMENTARY INFORMATION: The CCPAC works with federal agencies to implement the NFP on federal lands in the California Coast Province. The advisory committee provides advice to the Province Interagency Executive Committee (PIEC) regarding implementation of a comprehensive ecosystem management strategy for federal lands within the province. While the boundary of the province includes whole river drainages for broad ecosystem planning, the purpose of the PAC is to assist in implementing the NFP, which is limited to federal lands within the range of the northern spotted owl. Advisory committee recommendations are not legally binding and will not supersede the legally established decision authority granted to the federal agencies involved. All advisory committee meetings are open to the public. Interested citizens may request time on the agenda to address the committee. All papers and documents used by the committee, including meeting minutes, are available to the public.

Applicants must be United States citizens, at least 18 years old, and will be recommended for appointment based on their personal knowledge of local and regional resource issues, and understanding of public land uses and activities; willingness to work toward mutually beneficial solutions to complex issues; respect and credibility in local communities; and commitment to attending advisory committee meetings held for the province.

Advisory committee members must be willing to travel to meetings held throughout the province. Members will serve without pay, but reimbursement of travel and per diem is allowed for attendance at meetings called by the Chairperson of the advisory committee.

DATES: The due date for receipt of the nominations is August 15, 2000.

FOR FURTHER INFORMATION CONTACT: Individuals with questions about the process or wishing to submit nominations for one of the positions should contact one of the following for a nomination packet: James Fenwood, Forest Supervisor, or Phebe Brown, Province Coordinator; USDA, Mendocino National Forest, 825 N. Humboldt Avenue, Willows, CA, 95988; (530) 934–3316, TTY (530) 934–7724; FAX (530) 934–7384.

Dated: July 17, 2000.

James D. Fenwood,

Forest Supervisor.

[FR Doc. 00–18918 Filed 7–25–00; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

California Coast Provincial Advisory Committee (PAC)

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The California Coast Provincial Advisory Committee (PAC) will meet on August 16 and 17, 2000, at the Mateel Community Center in Redway, California. The meeting will be held from 10 a.m. until 5 p.m. on Wednesday, August 16, and from 8 a.m. to 12:30 p.m. on Thursday, August 17. The Mateel Community Center is located at 59 Rusk Lane in Redway. Agenda items to be covered include: (1) Follow up and federal agencies' panel on the Watershed Analyses issue; (2) Status of the issue on residual fish stocks and their habitat; (3) Follow up and federal agencies' presentation on the PAC roads resolution; (4) Regional Ecosystem Office (REO) update to include the Aquatic/Riparian Effectiveness Monitoring program, Survey and Manage Draft Environmental Impact Statement status, and tribal effectiveness monitoring; (5) Update of information from the State representative; (6) Presentation on Northwest Forest Plan monitoring; (7) Field trip to the King Range; and (8) Open public comment. All California Coast Provincial Advisory Committee meetings are open to the public. Interested citizens are encouraged to attend.

FOR FURTHER INFORMATION CONTACT: Direct questions regarding this meeting to James Fenwood, Forest Supervisor, or Phebe Brown, Province Coordinator, USDA, Mendocino National Forest, 825 N. Humboldt Avenue, Willows, CA 95988, (530) 934–3316.

Dated: July 17, 2000.

James D. Fenwood,

Forest Supervisor.

[FR Doc. 00–18917 Filed 7–25–00; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

National Agricultural Statistics Service

Notice of Intent To Request an Extension of a Currently Approved Information Collection

AGENCY: National Agricultural Statistics Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (Pub. L. No. 104–13) and Office of Management and Budget regulations at 5 CFR part 1320 (60 FR 44978, August 29, 1995), this notice announces the intent of the National Agricultural Statistics Service (NASS) to request an extension of a currently approved information collection, the Cotton Ginning Survey.

DATES: Comments on this notice must be received by September 29, 2000 to be assured of consideration.

ADDITIONAL INFORMATION OR COMMENTS: Contact Rich Allen, Associate Administrator, National Agricultural Statistics Service, U.S. Department of Agriculture, 1400 Independence Avenue SW, Room 4117 South Building, Washington, D.C. 20250–2000, (202) 720–4333.

SUPPLEMENTARY INFORMATION:

Title: Cotton Ginning Survey.

OMB Control Number: 0535–0220.

Expiration Date of Approval: January 31, 2001.

Type of Request: To Extend a Currently Approved Information Collection.

Abstract: The primary objective of the National Agricultural Statistics Service is to prepare and issue state and national estimates of crop and livestock production. The Cotton Ginning Survey provides statistics concerning cotton ginning for specific dates and geographic regions and aids in forecasting cotton production, which is required under 7 U.S.C. Section 475.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 6 minutes per response.

Respondents: Cotton Ginners.

Estimated Number of Respondents: 14,092.

Estimated Total Annual Burden on Respondents: 1,410 hours.

Copies of this information collection and related instructions can be obtained without charge from Ginny McBride, the Agency OMB Clearance Officer, at (202) 720–5778.

Comments: Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments may be sent to: Ginny McBride, Agency OMB Clearance Officer, U.S. Department of Agriculture, 1400 Independence Avenue SW, Room 5336 South Building, Washington, D.C. 20250–2009. All responses to this notice will become a matter of public record and be summarized in the request for OMB approval.

Signed at Washington, D.C., July 14, 2000.

Rich Allen,

Associate Administrator.

[FR Doc. 00–18900 Filed 7–25–00; 8:45 am]

BILLING CODE 3410–20–P

DEPARTMENT OF AGRICULTURE

Rural Housing Service

Notice of Request for Extension of a Currently Approved Information Collection

AGENCY: Rural Housing Service (RHS), USDA.

ACTION: Proposed collection; Comments requested.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the intention of the above-named Agency to request an extension for a currently approved information collection in support of the Community Facilities Grant Program.

DATES: Comments on this notice must be received by September 25, 2000, to be assured of consideration.

FOR FURTHER INFORMATION CONTACT: Joseph Ben-Israel, Senior Loan Specialist, Community Programs, RHS, USDA, 1400 Independence Ave. SW, Mail Stop 0787, Washington, DC 20250–0787. Telephone (202)720–1490, E-mail *jbenisra@rdmail.rural.usda.gov.*

SUPPLEMENTARY INFORMATION:

Title: 7 CFR part 3570, subpart B, Community Facilities Grant Program.

OMB Number: 0575–0173.

Expiration Date of Approval: September 30, 2000.

Type of Request: Extension of a currently approved information collection.

Abstract: The following Community Facilities grants (CFG) are processed in accordance with this currently approved docket (0575–0173).

Community Programs, a division of the Rural Housing Service (RHS), is part of the United States Department of Agriculture's Rural Development mission area. The Agency is authorized by Section 306(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926), as amended, to make grants to public agencies, nonprofit corporations, and Indian tribes to develop essential community facilities and services for public use in rural areas. These facilities include schools, libraries, child care, hospitals, clinics, assisted-living facilities, fire and rescue stations, police stations, community centers, public buildings, and transportation. Through its Community Programs, the Department of Agriculture is striving to ensure that such facilities are readily available to all rural communities.

Information will be collected by the field offices from applicants, consultants, lenders, and public entities. The collection of information is considered the minimum necessary to effectively evaluate the overall scope of the project.

Failure to collect information could have an adverse impact on effectively carrying out the mission, administration, processing, and program requirements.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average .8 hours per response.

Respondents: Public bodies, nonprofit corporations, and associations, and federally recognized Indian tribes.

Estimated Number of Respondents: 294.

Estimated Number of Responses per Respondent: 3.67.

Estimated Total Annual Burden on Respondents: 859 hours.

Copies of this information collection can be obtained from Brenda Frost, Regulations and Paperwork Management Branch, at (202) 692–0037.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility; (b) the accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments may be sent to Brenda Frost, Regulations and Paperwork Management Branch, U.S. Department of Agriculture, Rural Development, STOP 0742, 1400 Independence Ave. SW, Washington, DC 20250–0742. All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Dated: July 18, 2000.

James C. Kearney,

Administrator, Rural Housing Service.

[FR Doc. 00–18850 Filed 7–25–00; 8:45 am]

BILLING CODE 3410–XV–U

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Arizona Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Arizona Advisory Committee to the Commission will convene at 8 a.m. and adjourn at 4 p.m. on Thursday, August 31, 2000, at the Radisson Woodlands Hotel Flagstaff, Kaibab Room, 1175 West Route 66, Flagstaff, Arizona 86001. The purpose of the factfinding, one day open meeting is to discuss civil rights issues in law enforcement and education.

Persons desiring additional information, or planning a presentation to the Committee, should contact Philip Montez, Director of the Western Regional Office, 213–894–3437 (TDD 213–894–3435). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least ten (10) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, July 11, 2000.

Edward A. Hailes, Jr.

Acting General Counsel.

[FR Doc. 00–18834 Filed 7–25–00; 8:45 am]

BILLING CODE 6335–01–M

DEPARTMENT OF COMMERCE

Economic Development Administration

Notice of Petitions by Producing Firms for Determination of Eligibility to Apply for Trade Adjustment Assistance

AGENCY: Economic Development Administration, Commerce.

ACTION: To Give Firms an Opportunity to Comment.

Petitions have been accepted for filing on the dates indicated from the firms listed below.

LIST OF PETITION ACTION BY TRADE ADJUSTMENT ASSISTANCE FOR PERIOD 6/22/00–7/19/00

Firm name	Address	Date petition accepted	Product
BBFV Manufacturing Co., Inc	557 Noland Avenue Grand Junction, CO 81501.	22-Jun-2000	Saddlery & harnesses for animals.
Hanover Lantern, Inc	350 Kindig Lane, Hanover, PA 17331.	26-Jun-2000	Electric lamps and lighting fittings.
Thirteen Mile Lamb & Wool Co	13000 Springhill Road, Belgrade, MT 59714.	26-Jun-2000	Lambs/sheep for wool and frozen meat cuts.
M & B Headwear Co., Inc	2323 East Main Street, Richmond, VA 23223.	28-Jun-2000	Baseball caps.
Pokorny Sales & Mfg., Inc	20 Tierney Road, Lake Hopatcong, NJ 07849.	29-Jun-2000	Automotive electrical relays.
Termix Manufacturing, Inc	8633 Schumacher Lane, Houston, TX 77063.	05-Jul-2000	Hair brushes.
Flexon & Systems, Inc	153 South Long Street, Lafayette, LA 70506.	05-Jul-2000	Bulk polypropolyne bags.
Buckingham Mfg Co., Inc	1–11 Travis Avenue, Binghamton, NY 13902.	11-Jul-2000	Nylon and polyester harnesses, body belts, saddles, straps and metal connecting hardware for fall protection and rescue equipment.
Acme Engraving Co., Inc	19–37 Delaware Avenue, Passaic, NJ 07005.	19-Jul-2000	Rotary screen and metal cylinders for the apparel and wall covering industry.
Wexco Corporation	1015 Dillard Drive, Lynchburg, VA 24502.	19-Jul-2000	Bimetallic cylinders for injection molding machines.

The petitions were submitted pursuant to Section 251 of the Trade Act of 1974 (19 U.S.C. 2341). Consequently, the United States Department of Commerce has initiated separate investigations to determine whether increased imports into the United States of articles like or directly competitive with those produced by each firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of each petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter. A request for a hearing must be received by Trade Adjustment Assistance, Room 7315, Economic Development Administration, U.S. Department of Commerce, Washington, D.C. 20230, no later than the close of business of the tenth calendar day following the publication of this notice.

The Catalog of Federal Domestic Assistance official program number and title of the program under which these petitions are submitted is 11.313, Trade Adjustment Assistance.

Dated: July 19, 2000.

Anthony J. Meyer,

Coordinator, Trade Adjustment and Technical Assistance.

[FR Doc. 00–18856 Filed 7–25–00; 8:45 am]

BILLING CODE 3510–24–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmoispheric Administration

[I.D. 072000B]

Submission For OMB Review; Comment Request

The Department of Commerce has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Northeast Region Raised Footrope Trawl Exemption Fishery

Form Number(s): None

OMB Approval Number: None
Type of Request: Emergency submission
Burden Hours: 230
Number of Respondents: 288
Average Hours Per Response: 2 minutes
Needs and Uses: Framework 35 to the Northeast Multispecies Fishery Management Plan is intended to modify existing multispecies regulations to allow for a seasonal whiting raised footrope trawl exempted fishery. Persons holding multispecies Federal Fisheries Permits and wanting to participate in the exempted fishery must: (1) request a certificate to fish in the fishery, and (2) provide notification when they withdraw from the fishery. The information is needed for management of the fishery and enforcement.
Affected Public: Business and other for-profit
Frequency: On occasion
Respondent's Obligation: Mandatory
OMB Desk Officer: David Rostker, (202) 395–3897.

Copies of the above information collection proposal can be obtained by calling or writing Linda Engelmeier, DOC Forms Clearance Officer, (202) 482–3272, Department of Commerce, Room 6086, 14th and Constitution Avenue, NW, Washington, DC 20230 (or via the Internet at lengelme@doc.gov).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to David Rostker, OMB Desk Officer, Room 10202, New Executive Office Building, Washington, DC 20503.

Dated: July 18, 2000.

Madeleine Clayton,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 00–18901 Filed 7–25–00; 8:45 am]

BILLING CODE 3510–22–F

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Notice of Availability of Funds for Outreach to Individuals With a Disability To Increase Their Participation in National Service

AGENCY: Corporation for National and Community Service.

ACTION: Notice of availability of funds.

SUMMARY: The Corporation for National and Community Service (the Corporation) announces the availability of approximately five million dollars to support outreach activities to increase the participation of persons with disabilities in national service. We will use these funds to make grants to public or private nonprofit organizations to pay the Federal share of: (1) providing information about national service programs to individuals with disabilities who desire to perform service, (2) assisting in the recruitment of such individuals in national service, and (3) assisting national service programs in adapting their programs to encourage greater participation by individuals with disabilities. We expect to award approximately 20 grants in amounts ranging from $100,000 to $1,000,000 for a period of up to two years.

We published a notice of funding availability in the **Federal Register** on Monday, June 26, 2000 (65 FR 39370) specifically to support service days or events that include persons with disabilities. This current notice of funding availability also allows for that activity but enables potential applicants to propose a much broader range of activities.

DATES: All proposals must arrive at the Corporation no later than 5:00 p.m., Eastern Daylight Time, on October 4, 2000.

ADDRESSES: Submit proposals to the Corporation at the following address: Corporation for National and Community Service, Attn: Nancy Talbot, 1201 New York Avenue NW., Washington, DC 20525. This notice may be requested in an alternative format.

FOR FURTHER INFORMATION CONTACT: For further information and an application, visit our website at http://www.nationalservice.org. If you wish to obtain a printed application or to speak with someone, contact Thea Kachoris at (202) 606–5000, ext. 562, or email her at tkachoris@cns.gov. The TDD number is (202) 565–2799.

SUPPLEMENTARY INFORMATION:

A. Background

The Corporation was established in 1993 to engage Americans of all ages and backgrounds in service to their communities. The Corporation's national service programs provide opportunities for participants to serve full-time and part-time, with or without stipend, as individuals or as part of a team. AmeriCorps*State, National, VISTA, and National Civilian Community Corps programs engage thousands of Americans on a full, or part-time basis, at over 1,000 locations to help communities meet their toughest challenges. Learn and Serve America integrates service into the academic life or experiences of over one million youth from kindergarten through higher education in all 50 states. The National Senior Service Corps utilizes the skills, talents and experience of over 500,000 older Americans to help make communities stronger, safer, healthier, and smarter.

AmeriCorps*State and AmeriCorps*National programs, that involve over 40,000 Americans each year in result-driven community service, are grant programs managed by: (1) State commissions on national and community service that select and oversee programs operated by local organizations; (2) national non-profit organizations that act as ''parent organizations'' for program operating sites across the country; (3) Indian tribes; or (4) U.S. Territories. The Corporation also supports AmeriCorps*VISTA (Volunteers in Service to America) and AmeriCorps*NCCC (National Civilian Community Corps) programs. More than 6,000 AmeriCorps*VISTA members develop grassroots programs, mobilize resources and build capacity for service across the nation. AmeriCorps*NCCC provides the opportunity for approximately 1,000 individuals between the ages of 18 and 24 to participate each year in ten-month residential programs located mainly on inactive military bases. Learn and Serve America grants provide service-learning opportunities for youth through grants to state education agencies, community-based organizations, and higher education institutions and organizations, and Indian Tribes and Territories. The National Senior Service Corps operates through grants to nearly 1,300 local organizations for the Retired and Senior Volunteer (RSVP), Foster Grandparent (FGP) and Senior Companion (SCP) programs to provide service to their communities. For additional information on the national service programs supported by the Corporation, go to http://www.nationalservice.org.

B. Eligible Applicants

Eligible applicants for this funding are (1) Corporation-approved state commissions on national and community service, (2) state education agencies, (3) nonprofit organizations with expertise in disability issues proposing activities in at least three states, (4) tribal or territorial governments, and (5) regional, state-wide, or local consortia consisting of public or private nonprofit organizations (including state commissions, state education agencies or a consortium of projects working together within a region, state or locality). Consortia must identify a lead

agency that will serve as the legal applicant. Examples of state-wide, regional or local consortia include but are not limited to:

- Local service agencies, AmeriCorps programs, Learn and Serve America projects, and local disability associations that collaborate to develop an outreach and recruitment strategy;
- Senior Corps projects within a region, state, or locality that propose to fill volunteer vacancies with persons with disabilities;
- Collaborations between Corporation-approved state commissions;
- Community colleges, colleges, or universities within a region, state, or locality.

The Corporation encourages, and will give priority to, proposals that reflect collaborations that include organizations with a demonstrated expertise in disability issues (*e.g.*, a group of AmeriCorps programs form a partnership with their local Center for Independent Living to conduct outreach to the disabled community).

An organization described in section 501(c)(4) of the Internal Revenue Code of 1986, 26 U.S.C. 501(c)(4), that engages in lobbying activities, is not eligible to be a grantee or subgrantee.

C. Statutory Authority

Section 129(d)(5)(C) of the National and Community Service Act authorizes the Corporation to make grants to pay for the Federal share of (1) providing information about national service activities to persons with disabilities and (2) enabling such persons to participate.

D. Purpose of Grants

The National and Community Service Act of 1990, as amended, encourages citizens, regardless of age, income, or disability, to engage in full-time or part-time national service. Section 129(d)(5)(C) of the Act sets aside funds to ensure that people with disabilities are made aware of national service opportunities and are able to serve. We are committed to increasing the participation of persons with disabilities in all areas of national service. Many national service programs need assistance in understanding how to focus their outreach and recruitment efforts to ensure increased participation by people with disabilities. We recently sponsored a national conference that brought together disability organizations and national service programs to better understand opportunities and avenues for collaboration. We wish to continue and expand the efforts begun at this conference by making grants available to support outreach to persons with disabilities to increase their participation in national service.

E. Matching Funds Requirement

The Federal share of the cost of carrying out activities under these grants may not exceed 75 percent. A grantee may comply with this requirement through cash or in-kind resources. Cash match may be in the form of State funds, local funds, or Federal funds (other than funds made available under national service laws.)

F. Scope of Activities To Be Supported by Outreach Grants

This is a nationwide effort to encourage individuals with a disability to participate in national service programs (programs that are assisted under national service laws or otherwise act in conjunction with programs assisted under the national service laws). Our goal is to increase the number of persons with disabilities who participate in service. We will use these funds to make grants to eligible applicants to pay the Federal share of: (1) Providing information about national service programs to individuals with disabilities who desire to perform service, (2) assisting in the recruitment of such individuals in national service, and (3) assisting national service programs in adapting their programs to encourage greater participation by individuals with disabilities.

The following are sample activities aimed at increasing the number of persons with disabilities in national service:

- Develop and conduct activities geared toward national service program directors to increase their awareness of disability issues and their ability to undertake successful outreach and recruitment of people with disabilities.
- Develop and conduct targeted mailings and outreach sessions to engage students with disabilities in service-learning, including Federal Work Study students, in service projects.
- Organize and conduct information sessions for disability organizations to learn more about national service or to add service to the community as part of their organizations' mission.
- Sponsor part-time recruitment coordinators with the specific goal of meeting recruitment goals established for individuals with disabilities to participate in service projects.
- Train teachers in methods to include persons with disabilities as service providers in school-based service projects.
- Develop and fund local radio and television public service announcements that include images of persons of all ages with disabilities in service to others.
- Conduct targeted advertising and recruitment, *e.g.*, attending job fairs for persons with disabilities, outreach to schools for students with disabilities.
- Develop marketing materials that target persons with disabilities and are shared with the larger national service network.

The above are examples only. Proposals should reflect strategies applicable to local programs, or state-wide or regional efforts. State commissions and state education agencies may develop strategies that are state-wide or target particular localities in year one and expand to new localities in year two. National non-profit organizations must plan to provide outreach activities in at least three states across the country or within a particular region of the country. You may consider subgranting to local affiliates in collaboration with local national service programs or develop state-wide or regional activities.

Federal law (the Rehabilitation Act of 1973) requires recipients of federal financial assistance to fulfill a level of basic accessibility prior to receiving financial assistance. While the national service legislation provides separately for funds to pay for reasonable accommodations or auxiliary aids to assist specific categories of national service programs in placing individuals with a disability in national service positions, these outreach funds are not available for reasonable accommodations or auxiliary aids related to placement. However, outreach funds are not restricted to a particular category of national service program and may be used to make outreach events and materials accessible to individuals with a disability.

We are currently seeking Office of Management and Budget (OMB) approval for the narrative portion of the application requirements. You may use the description of these requirements (below) to plan your activities. We expect the OMB-approved application requirements to be available on our website no later than September 8, 2000.

G. Duration of Grant

The duration of each grant is up to two years, with the entire amount awarded at one time. Applications must include a proposed budget and proposed activities for the entire award period.

H. Application Requirements

All applicants must complete the Application for Federal Assistance (SF 424), Budget Information—Non-Construction Programs (SF 424A), and Assurances—Non-Construction Programs (SF 424B). Copies of these forms can be obtained at the Corporation's website: http://www.nationalservice.org. For a printed copy of any of these materials, please contact Thea Kachoris at (202) 606–5000, ext.562 or send an email to tkachoris@cns.gov. (Note: There must be one legal applicant for each proposal, including a consortium or joint proposal.) Applicants must submit one unbound, original proposal and two copies. We will not accept any proposals submitted by facsimile. All applicants are encouraged to submit voluntarily an additional four copies of the application to expedite the review process.

Attached to the SF 424, please include the following:

1. *Outreach and Recruitment Plan:* The plan should be specific and cover each of the categories listed below. The plan may be no more than 20 double-spaced, single-sided, typed pages in no smaller than 12-point font. It may include single-spaced bulleted sections.

- Proposed Strategy—Your proposed strategy and rationale for providing outreach to persons with disabilities and to increase participation of individuals with disabilities in national service programs.
- Description of Activities—A detailed description of your proposed activities to increase the number of individuals with disabilities as participants in national service programs and projected outcomes.
- Work Plan—A detailed work plan and timeline for conducting outreach and recruitment.
- Evaluation Plan—A plan for regularly evaluating and assessing your strategy to increase participation of persons with disabilities as participants in national service programs and the outcomes.

2. *Description of Organizational/Consortium Capacity.*

- A description of the organizational capacity of the entity proposing the grant including experience your organization has with outreach and recruitment, experience in or ability to administer a federal grant, and key staff position(s) who will be responsible for the project. If more than one organization will be involved in carrying out the activities, describe the capacity of the legal applicant to provide a coordinating role in the collaboration and the capacity of the other partners to fulfill their roles and responsibilities.
- Organizational Chart—If more than one organization will be involved in conducting the outreach activities, provide an organizational chart showing the lines of authority and areas of responsibility of each organization.

3. *Budget/Budget Narrative:* All applicants must complete Standard Form 424A (Budget Information—Non-Construction Programs) for the length of the project. Copies of this form can be obtained at the Corporation's website: *http://www.nationalservice.org.* If applying for a two year grant, indicate projected second year budget on page two of the form. The funds that the Corporation provides may not exceed 75% of the cost of carrying out activities under the grant. You may provide for the remaining share through a payment in cash or in-kind, fairly evaluated, including facilities, equipment, or services. You may use State sources, local sources, or Federal sources (if allowed by the granting agency) other than funds made available under the national service laws. Complete a budget narrative using the guidelines in the application instructions.

4. *Letters of Commitment:* If more than one organization will be involved in carrying out the outreach activities, the application should include letters of commitment from all partners.

I. Selection Criteria

In awarding these grants, we will consider program design, organizational capacity, and budget and cost effectiveness. Applicants must propose clearly-defined and specific activities to increase the number of persons with disabilities in national service. We will give priority consideration to applicants that demonstrate a collaboration with disability organizations with expertise in disability issues and to applicants who are themselves disability organizations that have expertise in a range of disability areas.

After evaluating the overall quality of proposals and their responsiveness to the criteria noted above, we will seek to ensure that applications we select represent a portfolio that is: (1) Geographically diverse, including projects throughout the five geographical clusters as designated by the Corporation; (2) representative of the range of disabilities; and (3) representative of a range of models and approaches to involving individuals with disabilities in national service. The Corporation will make all final decisions concerning awards and may require revisions to the original grant proposal in order to achieve the objectives under this Notice.

J. Notice of Intent To Submit

If you intend to submit an application, please send us a notice of intent to submit by August 31st addressed to Nancy Talbot, Corporation for National Service, 1201 New York Avenue, NW., Washington, DC 20525 or email your intent to *ntalbot@cns.gov.* The notice should include the name of your organization, address, contact person and phone number and should state that you plan to submit an application for outreach to individuals with a disability for the October 4th deadline.

If you do not send a notice of intent to submit, you may still submit an application. Conversely, if you send a notice of intent to submit, you are not obligated to submit an application. The notice of intent to submit simply helps us to plan more efficiently for our review.

K. Technical Assistance Calls

The Corporation is scheduling technical assistance calls on:

July 31, 2000 4–5 p.m. Eastern Daylight Time

August 9, 2000 3–4 p.m. Eastern Daylight Time

August 15, 2000 3:30–4:30 p.m. Eastern Daylight Time

If you wish to register for the call, please contact Theresa Dean at 202–606–5000 ext. 207. We expect to make selections by November 15, 2000, and award grants by the end of December. Grantees should plan to begin their activities in January or February 2001. Funding for these activities is contingent upon the availability of appropriations. The Corporation is not bound by any of the estimates in this Notice.

(CFDA #94.007)

Dated: July 21, 2000.

Gary Kowalczyk,

Coordinator, National Service Programs, Corporation for National and Community Service.

[FR Doc. 00–18911 Filed 7–25–00; 8:45 am]

BILLING CODE 6050–28–P

DEPARTMENT OF DEFENSE

Department of the Navy

Meeting of the Board of Advisors to the Superintendent, Postgraduate School

AGENCY: Department of the Navy, DOD.

ACTION: Notice.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92–463, 5 U.S.C. App. 2), notice is hereby given that the Board of Advisors to the Superintendent, Naval Postgraduate School, Monterey, California will meet at the Naval Postgraduate School, Monterey, California. All sessions will be open to the public.

The purpose of the meeting is to elicit the advice of the board on the Naval Service's Postgraduate Education Program. The board examines the effectiveness with which the Naval Postgraduate School is accomplishing its mission. To this end, the board will inquire into the curricula; instruction; physical equipment; administration; state of morale of the student body, faculty, and staff; fiscal affairs; and any other matters relating to the operation of the Naval Postgraduate School as the board considers pertinent.

DATES: The meeting will be held 21–22 August 2000 from 8:30 a.m. to 4:00 p.m.

FOR FURTHER INFORMATION CONTACT: Ms. Jaye Panza, Naval Postgraduate School, Monterey, California, 93943–5000, telephone (831) 656–2514.

Dated: April 14, 2000.

J.L. Roth,

Lieutenant Commander, Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 00–18885 Filed 7–25–00; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: The Leader, Regulatory Information Management Group, Office of the Chief Information Officer invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before August 25, 2000.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Wai-Sinn Chan, Acting Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, N.W., Room 10235, New Executive Office Building, Washington, D.C. 20503 or should be electronically mailed to the internet address Wai-Sinn_L._Chan@omb.eop.gov.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Regulatory Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, *e.g.* new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

Dated: July 20, 2000.

Joseph Schubart,

Acting Leader, Regulatory Information Management, Office of the Chief Information Officer.

Office of Vocational and Adult Education

Type of Review: New.

Title: Application for Vocational and Technical Education Direct Grants.

Frequency: Semi-Annually.

Affected Public: State, Local, or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 569

Burden Hours: 73,970

Abstract: This form will be used to apply for funding authorized by the Carl D. Perkins Vocational and Technical Education Act of 1998, administered by the Office of Vocational and Adult Education. The information will be used to award discretionary grants and cooperative agreeements.

This information collection is being submitted under the Streamlined Clearance Process for Discretionary Grant Information Collections (1890–0001). Therefore, the 30-day public comment period notice will be the only public comment notice published for this information collection.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov*, or should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW, Room 4050, Regional Office Building 3, Washington, D.C. 20202–4651. Requests may also be electronically mailed to the internet address OCIO_IMG_Issues@ed.gov or faxed to 202–708–9346. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be directed to Sheila Carey at (202) 708–6287 or via her internet address Sheila_Carey@ed.gov. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 00–18854 Filed 7–25–00; 8:45 am]

BILLING CODE 4000–01–U

DEPARTMENT OF EDUCATION

[CFDA No. 84.042]

Office of Postsecondary Education, U.S. Department of Education; Notice Inviting Applications for Student Support Services Program New Awards for Fiscal Year (FY) 2001

Purpose of Program: The Student Support Services Program provides grants to institutions of higher education for projects offering support services to low-income, first generation, or disabled college students. These support services should increase their retention and graduation rates, facilitate their transfer from two-year to four-year colleges, and foster an institutional climate supportive of the success of low-income and first generation college students and students with disabilities. The Student Support Services Program increases the number of disadvantaged students in the United States who successfully complete a program of study at the postsecondary level of education.

Eligible Applicants: Institutions of higher education and combinations of institutions of higher education.

Applications Available: August 1, 2000.

Deadline for Transmittal of Applications: September 15, 2000.

Deadline for Intergovernmental Review: November 14, 2000.

Available Funds: $218.4 million. The estimated amount of funds available for new awards is based on the Administration's request for this program for FY 2001. The actual level of funding, if any, is contingent on final congressional action.

Estimated Range of Awards: $180,000–$310,000.

Estimated Number of Awards: 954.

Note: The Department is not bound by any of the estimates in this notice.

Project Period: Up to 60 months.

Page Limit: The application narrative (Part III of the application) is where you, the applicant, address the selection criteria that reviewers use to evaluate your application. You must limit Part III to the equivalent of no more than 100 pages, using the following standards:

• A ''page'' is 8.5″ x 11″ on one side only, with 1'' margins at the top, bottom, and both sides.

• Double space (no more than three lines per vertical inch) all text in the application narrative, including titles, headings, footnotes, quotations, references, and captions, as well as all text in charts, tables, figures, and graphs.

• Use a font that is either 12-point or larger or no smaller than 10 pitch (characters per inch).

The page limit does not apply to Part I, the cover sheet; Part II, the budget section, including the narrative budget justification; Part IV, the assurances and certifications; or the one-page abstract, the resumes, the bibliography, or the letters of support. However, you must include all of the application narrative in Part III.

We will reject your application if—

• You apply these standards and exceed the page limit; or

• You apply other standards and exceed the equivalent of the page limit.

Applicable Regulations: The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 82, 85, 86, 97, 98 and 99; and the regulations for this program in 34 CFR part 646.

FOR FURTHER INFORMATION CONTACT: Deborah I. Walsh, Office of Federal TRIO Programs, U.S. Department of Education, 1990 K Street, NW, Suite 7000, Washington, DC 20006–8510. Telephone: (202) 502–7600. The E-mail address for Ms. Walsh is: TRIO@ed.gov.

Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339. Individuals with disabilities may obtain this document in an alternative format (*e.g.*, Braille, large print, audiotape, or computer diskette) on request to the contact person listed in the preceding paragraph.

Individuals with disabilities may obtain a copy of the application package in an alternative format, also, by contacting that person. However, the Department is not able to reproduce in an alternative format the standard forms included in the application package.

FOR APPLICATIONS CONTACT: Education Publications Center (ED Pubs), P.O. Box 1398, Jessup, MD 20794–1398. Telephone (toll free): 1–877–433–7827. Fax: (301) 470–1244. Individuals who use telecommunications device for the deaf (TDD) may call (toll free): 1–877–576–7734. You may also contact ED Pubs at its Web Site: http://www.ed.gov/pubs/edpubs.html or at its E-mail address: edpubs@inet.ed.gov.

If you request an application from ED Pubs, be sure to identify this competition as follows: CFDA 84.042.

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Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: http://www.access.gpo.gov/nara/index.html.

Program Authority: 20 U.S.C. 1070a–11 and 1070a–14.

Dated: July 20, 2000.

A. Lee Fritschler,

Assistant Secretary, Office of Postsecondary Education.

[FR Doc. 00–18863 Filed 7–25–00; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP00–403–000]

Distrigas of Massachusetts Corporation; Notice of Application for a Blanket Certificate of Public Convenience and Necessity

July 20, 2000.

Take notice that on July 10, 2000, Distrigas of Massachusetts Corporation (''DOMAC'') filed an abbreviated application for a blanket certificate of public convenience and necessity to install and operate certain temporary air injection equipment as needed at its liquefied natural gas (''LNG'') terminal in Everett, Massachusetts.

DOMAC states that it may require additional air injection capability on a temporary basis in the future in order to air stabilize higher-BTU cargoes of LNG or during periods of maintenance or repair to the permanent air injection equipment. DOMAC states that its current permanently-installed air injection equipment may not in all cases permit DOMAC to air stabilize sufficient quantities of higher-Btu LNG to meet all customer needs and to send out regasified LNG at a rate sufficient to allow receipt of incoming LNG cargoes. Because lower-Btu LNG is generally available, DOMAC does not foresee a requirement for additional permanent air injection facilities. Accordingly, DOMAC is filing for blanket certificate authority to install such equipment as needed in the future.

Any question regarding this application should be directed to Robert A. Nailling, Senior Counsel, Distrigas of Massachusetts Corporation, 75 State Street, 12th Floor, Boston, Massachusetts 02109, (617) 526–8300.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 10, 2000, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. The Commission's rules require that protestors provide copies of their protests to the party or parties directly involved. Any person wishing to become a party in any proceeding herein must file a motion to intervene in accordance with the Commission's rules. Copies of this filing are on file with the Commission and are available for public inspection. This filing may be viewed on the Internet at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

A person obtaining intervenor status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by every one of the intervenors. An intervenor can file for rehearing of any Commission order and can petition for court review of any such order. However, an intervenor must submit

copies of comments or any other filing it makes with the Commission to every other intervenor in the proceeding, as well as 14 copies with the Commission.

A person does not have to intervene, however, in order to have comments considered. A person, instead, may submit two copies of comments to the Secretary of the Commission. Commenters will be placed on the Commission's environmental mailing list, will receive copies of environmental documents and will be able to participate in meetings associated with the Commission's environmental review process. Commenters will not be required to serve copies of filed documents on all other parties. However, commenters will not receive copies of all documents filed by other parties or issued by the Commission and will not have the right to seek rehearing or appeal the Commission's final order to a Federal court.

The Commission will consider all comments and concerns equally, whether filed by commenters or those requesting intervenor status.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for DOMAC to appear or to be represented at the hearing.

David P. Boergers,

Secretary.

[FR Doc. 00–18853 Filed 7–25–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. RM98–10–000 et al.]

Regulation of Short-Term Natural Gas Transportation Services, et al.

July 21, 2000.

In the matter of: RM98–12–000, RP00–393–000, RP00–387–000, RP00–406–000, RP00–405–000, RP00–390–000, RP00–407–000, RP00–411–000, RP00–394–000, RP00–397–000, RP00–396–000, RP00–401–000, RP00–400–000, RP00–391–000, RP00–410–000, RP00–409–000, RP00–399–000, RP00–392–000, RP00–403–000, RP00–404–000, RP00–412–000, RP00–398–000, RP00–408–000, RP00–402–000, RP00–395–000, RP00–413–000, RP00–414–000, and RM98–10–000; Regulation of Interstate Natural Gas Transportation Services, Eastern Shore Natural Gas Company, Florida Gas Transmission Company, Gas Transport, Inc., Gulf States Transmission Corporation, Granite State Gas Transmission, Inc., High Island Offshore System, L.L.C., Iroquois Gas Transmission System, L.P., K O Transmission Company, Questar Pipeline Company, Michigan Gas Storage Company, Midcoast Interstate Transmission, Inc., Mid Louisiana Gas Company, Mississippi Canyon Gas Pipeline, LLC, Mississippi River Transmission Corporation, Natural Gas Pipeline Company of America, National Fuel Gas Supply Corporation, Nautilus Pipeline Company, L.L.C., Northern Border Pipeline Company, Northern Natural Gas Company, Northwest Pipeline Corporation, Overthrust Pipeline Company, Ozark Gas Transmission, L.L.C., Paiute Pipeline Company, Panhandle Eastern Pipe Line Company, Pine Needle LNG Company, LLC, PG&E Gas Transmission, Northwest Corporation; Notice of Compliance Filing

Take notice that on July 17, 2000, the above-referenced pipelines tendered for filing their *pro forma* tariff sheets respectively, in compliance with Order Nos. 637 and 637–A.

On February 9 and May 19, 2000, the Commission issued Order Nos. 637 and 637–A, respectively, which prescribed new regulations, implemented new policies and revised certain existing regulations respecting natural gas transportation in interstate commerce. The Commission directed pipelines to file *pro forma* tariff sheets to comply with the new regulatory requirements regarding scheduling procedures, capacity segmentation, imbalance management services and penalty credits, or in the alternative, to explain why no changes to existing tariff provisions are necessary.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before August 15, 2000. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 00–18880 Filed 7–25–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–305–001]

Mississippi River Transmission Corporation; Notice of Compliance Filing

July 21, 2000.

Take notice that on July 17, 2000, Mississippi River Transmission Corporation (MRT) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, First Substitute Original Sheet No. 226A and First Substitute Original Sheet No. 226B to become effective July 1, 2000.

MRT states that the purpose of this filing is to comply with the Commission's June 30, 2000 order in which the Commission accepted MRT's negotiated rates proposal, subject to MRT filing revised tariff sheets addressing certain issues. MRT states that the revised tariff sheets address all outstanding issues.

MRT states that a copy of this filing is being mailed to each of MRT's customers, all parties to the proceeding and to the state commissions of Arkansas, Illinois and Missouri.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will

be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 00–18878 Filed 7–25–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–285–001]

Northwest Alaskan Pipeline Company; Notice of Compliance Filing

July 21, 2000.

Take notice that on July 17, 2000 Northwest Alaska Pipeline Company (Northwest Alaskan) tendered for filing information regarding certain state tax litigation expenses that it has included in its demand charge adjustment filing in this proceeding and in prior adjustments. Northwest Alaska asserts that the purpose of this filing is to comply with the Commission's order issued June 30, 2000, in the above referenced docket.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed on or before July 28, 2000. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 00–18877 Filed 7–25–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP00–233–000]

Southern Natural Gas Company; Notice of Site Visit

July 20, 2000.

On July 31 through August 3, 2000, the staff of the Office of Energy Projects will conduct a precertification site visit with corporate officials of the Southern Natural Gas Company (Southern). The purpose of the site visit is to tour the project area of Southern's proposed South System Expansion Project in Clarke and Lauderdale Counties, Mississippi; Sumter, Dallas, Autagua, Macon, Lee, Tallapoosa, and Macon Counties, Alabama; and Jefferson County, Georgia.

All parties may attend the site visit. Those planning to attend must provide their own transportation. For further information on attending the site visit, please call Mr. Paul McKee of the Commission's External Affairs Office at (202) 208–1088.

David P. Boergers,

Secretary.

[FR Doc. 00–18851 Filed 7–25–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP00–404–000

Texas Eastern Transmission Corporation; Notice of Application

July 20, 2000.

Take notice that on July 13, 2000, Texas Eastern Transmission Corporation (Texas Eastern), 5400 Westheimer Court, Houston, Texas 77056–5310, filed an application in Docket No. CP00–404–000 pursuant to Section 7(c) of the Natural Gas Act (NGA) seeking a certificate of public convenience and necessity (i) to uprate the maximum allowable operating pressure (MAOP) of its existing Line No. 1–A in the Philadelphia area, and to construct, own, operate, and maintain certain facilities to render a firm lateral transportation service for up to 84,000 Dekatherms per day (Dth/d) of natural gas for PG&E Energy Trading—Power; L.P. (PGET), and Liberty Electric Power, LLC (LEP), and (ii) to establish a Section 7(c) initial recourse rate for the incremental facilities proposed herein, all as more fully set forth in the application which is on file with the Commission and open to public inspection. This filing may be viewed on the web at http://www.ferc.us/online/rims.htm (call 202–208–2222 for assistance).

Texas Eastern states that the name address, and telephone number of the person to whom correspondence and communication concerning this application should be addressed is: Steven E. Tillman, Director of Regulatory Affairs, Texas Eastern Transmission Corporation, P.O. Box 1642, Houston, Texas 77251–1642, (713) 627–5113, (713) 627–5947 (FAX).

In addition, Texas Eastern requests, pursuant to Section 4 of the NGA and Section 29 of the General Terms and Conditions (GT&C) of its FERC Gas Tariff, approval of the negotiated rates for the services described more fully herein.

Texas Eastern states that it intends to provide firm transportation for PGET and LEP at the Liberty electric generating plant (Columbia Liberty Plant), which is a 567.7 megawatt gas-fired electric power plant being developed by, and to be owned by, LEP in the Borough of Eddystone, Delaware County, Pennsylvania. In order to provide this service, Texas Eastern proposes to expand its existing Philadelphia Lateral system to make available 84,000 dth/d of firm transportation capacity required to fuel the Columbia Liberty Plant. Texas Eastern proposes to install one 4,000 horsepower (hp) electric compressor at its existing Eagle Compressor Station site (Eagle Station), replacing, in situ, various segments of the existing 20-inch Line No. 1–A pipeline, uprating the operating pressure of the 20–inch Line No. 1–A, and constructing approximately 0.6 miles of 12-inch pipeline and associated metering facilities, to establish the connection with the Columbia Liberty Plant.

According to Texas Eastern, the 0.6 mile lateral pipe will extend from milepost (MP) 3.2 on Texas Eastern's 16-inch Line No. 1–A to a proposed tie-in point within the Columbia Liberty Plant (Liberty Lateral). Texas Eastern also proposes to construct a meter station at the interconnection between the proposed Liberty Lateral and the Columbia Liberty Plant. In addition, at the interconnection of the proposed Liberty Lateral and Texas Eastern's 16-inch Line No. 1–A, Texas Eastern proposes to construct new aboveground valve and piping facilities to be located within the existing rights-of-way (ROW). The new facilities will also include a 4,000 hp electric driven compression unit at Texas Eastern's existing Eagle

Station and associated piping, valves, and instrumentation facilities which will provide the compression necessary for the proposed service.

Texas Eastern states that prior to developing the scope of work for the expansion proposed herein, Texas Eastern conducted an in-line inspection of its existing 20-inch Line No. 1–A. Based on the evaluation of that inspection, Texas Eastern proposes to replace certain pipeline anomaly segments identified on its existing 20-inch Line No. 1–A. Texas Eastern states that all of these replacements will be in-situ. Subsequent to the replacements, Texas Eastern states that it will perform a hydrostatic test of approximately 22.7 miles of the 20-inch Line No. 1–A between Eagle Station located at MP 0.0 in Chester County, Pennsylvania, and Chester Junction located at MP 22.7 in Delaware County, Pennsylvania. According to Texas Eastern, this hydrostatic test will allow for an increase in the MAOP of the 20-inch Line No. 1–A from 400 psig to 656 psig. It is stated that this increase in MAOP, together with installation of the other proposed facilities, is required to accommodate deliveries to the Columbia Liberty Plant at LEP's required delivery pressure of 500 psig.

Texas Eastern states that the cost of the proposed facilities is estimated to be approximately $21.5 million. Texas Eastern further states that the facilities proposed herein will be constructed in compliance with the Natural Gas Pipeline Safety Act of 1968, and operated in accordance with federal safety codes applicable to gas transmission pipelines.

According to Texas Eastern, LEP will own and operate the Columbia Liberty Plant. To market the plant's electric output, LEP has entered into a Tolling Agreement with PGET, pursuant to which LEP will sell its energy output to PGET for a term of approximately 14.5 years subject to extension and early termination under certain circumstances. Texas Eastern states that under the Tolling Agreement, PGET has the right to purchase and market 100% of the electricity generated by the Columbia Liberty Plant except under certain limited circumstances. It is stated that for the term of the Tolling Agreement, PGET will also be the fuel manager for the Columbia Liberty Plant. Texas Eastern contends that following the expiration or other termination of the Tolling Agreement, LEP intends to procure its own gas supply for delivery to the Columbia Liberty plant under the Lateral Service Agreement to support its operation of the Columbia Liberty Plant as a ''merchant'' generating facility. Texas Eastern states that LEP is obligated under the Tolling Agreement to commence delivery of power to PGET by April 1, 2002.

Texas Eastern states that the Lateral Service Agreement provides for the firm lateral transportation service of up to a maximum daily quantity (''MDQ'') of 84,000 Dth/d for a primary term of 25 years. It is stated that the proposed service will fully utilize the capacity that will result from the construction of facilities proposed herein. The primary receipt point under the Lateral Service Agreement will be at Texas Eastern's existing Eagle Station, and the primary delivery point will be at the downstream terminus of the proposed Columbia Liberty Lateral at the interconnection with the Columbia Liberty Plant. Texas Eastern states that the Lateral Service Agreement is a lateral-only service; PGET and LEP will have no rights under this FT–1 service agreement to receive service on any portion of Texas Eastern's system other than the Philadelphia Lateral facilities. Texas Eastern further states that service under the Lateral Service Agreement will be provided at a negotiated rate. According to Texas Eastern, the executed precedent agreement and Lateral Service Agreement demonstrate that the Columbia Liberty Project is being built for a specific new market and will not rely on subsidies from existing customers. Texas Eastern states that these agreements are submitted as evidence of the benefits of this project pursuant to the Commission's Statement of Policy on Certificating New Interstate Pipeline Facilities [1] (''Policy Statement'').

Texas Eastern states that in conjunction with the Lateral Service Agreement, PGET, LEP and Texas Eastern have entered into, as an essential component of this transaction, the Mainline Service Agreement, which is a Rate Schedule FT–1 service agreement for mainline service in Market Zone M3 on a secondary basis. This mainline Zone M3 service allows for secondary firm transportation rights in Texas Eastern's Zone M3 at a negotiated rate. It is stated that this service was required by PGET and LEP and is intended for utilization only during those periods and to the extent that the Columbia Liberty Plant is not operating at full load. According to Texas Eastern, this service will allow LEP and PGET to have secondary access to other Zone M3 markets in order to have the opportunity to sell gas that is not needed at the Columbia Liberty Plant. It is stated that this service applies to gas that already is being transported on the mainline and would be subsequently transported down the lateral under the Lateral Service Agreement, absent the Columbia Liberty Plant not operating at full load. Since the Mainline Service Agreement provides secondary only transportation rights, Texas Eastern states that there is no firm capacity reserved for the Mainline Service Agreement. Because no firm capacity is reserved for this service agreement, Texas Eastern contends that it did not award this contract under its net present value allocation mechanism included in Section 3.12 of the GT&C of Texas Eastern's FERC Gas Tariff. Although Texas Eastern does not believe it is required, to the extent the Commission deems necessary, Texas Eastern requests a waiver of Section 3.12 of the GT&C of Texas Eastern's FERC Gas Tariff for the award of the Mainline Service Agreement.

Texas Eastern states that a separate negotiated rate agreement was executed for the Mainline Service Agreement, and is designed to reflect the purpose for which the parties entered into the agreement which is solely to mitigate demand charge costs at times when the Columbia Liberty Plant is not operating at full load. Specifically, the negotiated rate for the Mainline Service Agreement is limited to a total aggregate quantity of 84,000 Dth/d being delivered under the Mainline Service Agreement and the Lateral Service Agreement. According to Texas Eastern, this is designed to ensure that on any given day not more than 84,000 Dth/d (the MDQ of the Lateral Service Agreement) is transported at the negotiated rates for the lateral service and/or the secondary mainline service. These secondary rights will allow PGET and LEP to utilize secondary transportation rights only in Zone M3 after existing customers' primary firm transportation entitlements have been scheduled and will not have an adverse impact on Texas Eastern's ability to meet its primary firm service obligations.

Texas Eastern states that PGET and LEP will obtain its own gas supply. Through the Texas Eastern system, PGET and LEP will have access to gas supplies attached to the North American pipeline grid. Texas Eastern states that natural gas will be delivered to the Columbia Liberty Project facilities at the upstream terminus of the Philadelphia Lateral facilities, by acquisition of capacity through capacity release, by utilizing interruptible capacity or by

[1] *Certification of New Interstate Natural Gas Pipeline Facilities,* 88 FERC ¶ 61,227 (1999) and, *Order Clarifying Statement of Policy,* 90 FERC ¶ 61,128 (2000).

third-party deliveries under other service agreements.

Texas Eastern proposes to establish an NGA Section 7(c) initial recourse rate, which is a cost based and separately stated incremental reservation rate equal to $4.461 per Dth per month under Texas Eastern's Rate Schedule FT–1 for the lateral only service to PGET and LEP. Texas Eastern contends that this rate has been designed using Texas Eastern's incremental cost-of-service for this project and is shown on the Pro Forma Rate Schedule FT–1 tariff sheets. Texas Eastern states that it will maintain a separate record of capital costs for this project in its book of accounts.

Notwithstanding the foregoing, PGET, LEP and Texas Eastern have agreed to negotiated rates for both of the services described herein, in accordance with and pursuant to the negotiated rate authority contained in Section 29 of the GT&C of Texas Eastern's FERC Gas Tariff. Texas Eastern states that included in Exhibit P to its application are tariff sheets which identify the negotiated rate agreements. In addition, Texas Eastern states that it included a copy of each negotiated rate agreement in Exhibit I to its application. Texas Eastern requests that the proposed tariff sheets detailing the negotiated rate transactions with PGET and LEP be approved as part of the certificate issued in this proceeding. Texas Eastern requests waiver of Section 154.207 of the Commission's regulations to allow for this effective date. Texas Eastern submits that good cause exists for granting this waiver, as the negotiated rate agreements are integral components of this proposal. According to Texas Eastern, the tariff sheets filed herewith affirm that the actual negotiated rate agreements do not deviate in any material respect from the form of service agreement. Finally, Texas Eastern states that the accounting treatment for negotiated rates will be consistent with Section 29 of the GT&C of Texas Eastern's FERC Gas Tariff.

Since the costs of the proposed facilities will be recovered through the proposed incremental rate, Texas Eastern states that the project will have no adverse impact on existing customers. Texas Eastern states that the project is financially viable without subsidies from Texas Eastern's existing customers, thus meeting the threshold requirements established in the Commission's Policy Statement.

Texas Eastern states that the Columbia Liberty Plant is currently being constructed and is scheduled to take initial test gas commencing September 1, 2001. Texas Eastern requests that the Commission issue a Preliminary Determination on the non-environmental aspects of its proposal by January 1, 2001 and that a final certificate be issued on before March 1, 2001. Texas Eastern stated that LEP has informed it that since the Columbia Liberty Plant is currently under construction, significant capital commitments for long lead-time construction items have been made and that receipt of a final certificate by March 1, 2001 is critical. According to Texas Eastern, Issuance of a Preliminary Determination and the authorizations requested herein by January 1, 2001 and March 1, 2001, respectively, will provide LEP with assurance regarding connection to the gas grid, which is necessary to fuel the Columbia Liberty Plant and enable LEP to continue to pursue construction and related activities required to meet the September 1, 2001 schedule for test gas for the Columbia Liberty Plant.

Any person desiring to be heard or to make protest with reference to said application should on or before August 10, 2000, file with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18. CFR 385.211 or 385.214) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. The Commission's rules require that protestors provide copies of their protests to the party or parties directly involved. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's rules.

A person obtaining intervenor status will be placed on the service list maintained by the Commission and will receive copies of all documents issued by the Commission, filed by the applicant, or filed by all other intervenors. An intervenor can file for rehearing of any Commission order and can petition for court review of any such order. However, an intervenor must submit copies of comments or any other filing it makes with the Commission to every other intervenor in the proceeding, as well as 14 copies with the Commission.

A person does not have to intervene, however, in order to have comments considered. A person, instead, may submit two copies of comments to the Secretary of the Commission. Commeters will be placed on the Commission's environmental mailing list, will receive copies of environmental documents and will be able to participate in meetings associated with the Commission's environmental review process. Commenters will not be required to serve copies of filed documents on all other parties. However, commenters will not receive copies of all documents filed by other parties or issued by the Commission and will not have the right to seek rehearing or appeal the Commission's final order to a federal court.

The Commission will consider all comments and concerns equally, whether filed by commenters or those requesting intervener status.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Commission by Sections 7 and 15 of the NGA and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Texas Eastern to appear or be represented at the hearing.

David P. Boerger,

Secretary.

[FR Doc. 00–18852 Filed 7–25–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER97–3189–029, et al.]

PPL Electric Utilities Corporation, et al.; Electric Rate and Corporate Regulation Filings

July 19, 2000.

Take notice that the following filings have been made with the Commission:

1. PPL Electric Utilities Corporation

[Docket No. ER97–3189–029]

Take notice that on July 13, 2000, PPL Electric Utilities Corporation (PPL Utilities), formerly known as PP&L, Inc.,

tendered a compliance filing pursuant to the Commission's order in Allegheny Power Service Company, 90 FERC¶ 61,224 (2000).

PPL Utilities has served a copy of this filing on the parties on the Commission's official service list for this docket.

Comment date: August 3, 2000, in accordance with Standard Paragraph E at the end of this notice.

2. California Independent System Operator Corporation

[Docket No. ER00–2208–002]

Take notice that on July 14, 2000, the California Independent System Operator Corporation (ISO), tendered for filing a change to the ISO Tariff to comply with the Commission's order in California Independent System Operator Corporation, 91 FERC ¶ 61,256 (2000). This change corrects a typographical error contained on a tariff sheet filed in the above-referenced docket. The ISO states that this filing has been served upon all parties in this proceeding.

Comment date: August 4, 2000, in accordance with Standard Paragraph E at the end of this notice.

3. TXU Electric Company

[Docket No. ER00–2256–001]

Take notice that on July 14, 2000, TXU Electric Company (TXU Electric), tendered for filing revised tariff sheets for its revised Tariff for Transmission Service To, From and Over Certain HVDC Interconnections to modify a tariff provision included in TXU Electric's April 20, 2000 filing in Docket No. ER00–2256–000, in compliance with the Commission's June 14, 2000 order in that Docket.

Copies of the filing were served on the persons designated on the official service list compiled by the Secretary in this proceeding.

Comment date: August 4, 2000, in accordance with Standard Paragraph E at the end of this notice.

4. Pinnacle West Capitol Corporation; Arizona Public Service Company; APS Energy Services Corporation, Inc.

[Docket No. ER00–2268–001]

Take notice that on July 14, 2000, the Pinnacle West Capitol Corporation, Arizona Public Service Company and APS Energy Services Corporation, Inc. (Pinnacle West Companies), tendered for filing proposed revisions to Arizona Public Service Company's fuel adjustment clause in compliance with FERC's Order issued June 20, 2000.

A copy of this filing has been served to all parties on the official service list.

Comment date: August 4, 2000, in accordance with Standard Paragraph E at the end of this notice.

5. Entergy Nuclear FitzPatrick, LLC

[Docket No. ER00–2738–001]

Take notice that on July 14, 2000, Entergy Nuclear FitzPatrick, LLC, tendered for filing an amendment to its application for authorization to sell wholesale power at market-based rates pursuant to Section 205 of the Federal Power Act.

Copies of this filing have been served upon all parties listed on the official service list maintained by the Secretary of the Commission for these proceedings.

Comment date: August 4, 2000, in accordance with Standard Paragraph E at the end of this notice.

6. Entergy Nuclear Indian Point 3, LLC

[Docket No. ER00–2740–001]

Take notice that on July 14, 2000, Entergy Nuclear Indian Point 3, LLC tendered for filing an amendment to its application for authorization to sell wholesale power at market-based rates pursuant to Section 205 of the Federal Power Act.

Copies of this filing have been served upon all parties listed on the official service list maintained by the Secretary of the Commission for these proceedings.

Comment date: August 4, 2000, in accordance with Standard Paragraph E at the end of this notice.

7. Allegheny Energy Service Corporation on behalf of Allegheny Energy Supply Company, LLC

[Docket No. ER00–2754–001]

Take notice that on July 13, 2000, Allegheny Energy Service Corporation on behalf of Allegheny Energy Supply Company, LLC (Allegheny Energy Supply), tendered for filing First Revised Service Agreement No. 74 under the Market Rate Tariff to incorporate a Netting Agreement with Louisville Gas and Electric Company/ Kentucky Utilities Company into the tariff provisions.

Allegheny Energy Supply requests a waiver of notice requirements to make the Netting Agreement effective as of July 3, 2000 or such other date as ordered by the Commission.

Copies of the filing have been provided to the Public Utilities Commission of Ohio, the Pennsylvania Public Utility Commission, the Maryland Public Service Commission, the Virginia State Corporation Commission, the West Virginia Public Service Commission, and all parties of record.

Comment date: August 4, 2000, in accordance with Standard Paragraph E at the end of this notice.

8. Public Service Company of New Mexico

[Docket No. ER00–3149–000]

Take notice that on July 14, 2000, Public Service Company of New Mexico (PNM), tendered for filing an executed service agreement with Dynegy Marketing & Trade, dated July 12, 2000, for firm point-to-point transmission service under PNM's Open Access Transmission Service Tariff. PNM's filing is available for public inspection at its offices in Albuquerque, New Mexico.

Copies of the filing have been sent to Dynegy Marketing & Trade and to the New Mexico Public Regulation Commission.

Comment date: August 4, 2000, in accordance with Standard Paragraph E at the end of this notice.

9. Potomac Electric and Power Company

[Docket No. ER00–3151–000]

Take notice that on July 14, 2000, Potomac Electric Power Company (PEPCO), tendered for filing an executed netting agreement between PEPCO and NewEnergy, Inc. (the Counterparty).

A copy of the filing was served upon the Counterparty.

Comment date: August 4, 2000, in accordance with Standard Paragraph E at the end of this notice.

10. CMS Marketing Services and Trading Company

[Docket No. ER00–3152–000]

Take notice that on July 14, 2000, CMS Marketing Services and Trading Company (CMS MST), tendered for filing pursuant to its market-based sales tariff, a Service Agreement establishing its public utility affiliate, Consumers Energy Company (CECo), as a customer and requesting cancellation of the Code of Conduct between CMS MST and CECo. CMS MST states that CECo's commitment to exclude all purchases from CMS MST from any rate calculations for its ten wholesale requirements customers and twelve special contracts customers, the retail rate freeze that is in effect until at least December 31, 2003, and the phase in of full retail choice by January 1, 2002 will insulate all of CECo's captive customers from the impact of any purchases from CMS MST.

CMS MST also seeks waiver of any regulations of the Federal Energy Regulatory Commission necessary to permit an effective date of August 1, 2000.

Comment date: August 4, 2000, in accordance with Standard Paragraph E at the end of this notice.

11. Wisconsin Electric Power Company

[Docket No. ER00–3153–000]

Take notice that on July 14, 2000, Wisconsin Electric Power Company (Wisconsin Electric), tendered for filing an unexecuted electric service agreement under its Coordination Sales Tariff (FERC Electric Tariff, First Revised Volume No. 2).

Wisconsin Electric respectfully requests an effective date July 14, 2000.

Copies of the filing have been served on Edison Mission Marketing & Trading, Inc., the Michigan Public Service Commission, and the Public Service Commission of Wisconsin.

Comment date: August 4, 2000, in accordance with Standard Paragraph E at the end of this notice.

12. Potomac Electric Power Company

[Docket No. ER00–3154–000]

Take notice that on July 14, 2000, Potomac Electric Power Company (Pepco), tendered for filing a service agreement pursuant to Pepco FERC Electric Tariff, Original Volume No. 5, entered into between Pepco and El Paso Merchant Energy, L.P.

An effective date of June 1, 2000, for this service agreement with waiver of notice is requested.

Comment date: August 4, 2000, in accordance with Standard Paragraph E at the end of this notice.

13. Southwestern Public Service Company

[Docket No. ER00–3155–000]

Take notice that on July 14, 2000, New Century Services, Inc., on behalf of Southwestern Public Service Company (Southwestern), tendered for filing an executed umbrella service agreement under Southwestern's market-based sales tariff with Sempra Energy Trading Corp. (Sempra). This umbrella service agreement provides for Southwestern's sale and Sempra's purchase of capacity and energy at market-based rates pursuant to Southwestern's market-based sales tariff.

Southwestern requests that this service agreement become effective on June 14, 2000.

Comment date: August 4, 2000, in accordance with Standard Paragraph E at the end of this notice.

14. The Montana Power Company

[Docket No. ER00–3156–000]

Take notice that on July 14, 2000, The Montana Power Company (Montana) tendered for filing with the Federal Energy Regulatory Commission pursuant to 18 CFR 35.13 executed Firm and Non-Firm Point-To-Point Transmission Service Agreements with the Public Service Company of Colorado under Montana's FERC Electric Tariff, Fourth Revised Volume No. 5 (Open Access Transmission Tariff).

A copy of the filing was served upon the Public Service Company of Colorado.

Comment date: August 4, 2000, in accordance with Standard Paragraph E at the end of this notice.

15. Commonwealth Edison Company

[Docket No. ER00–3157–000]

Take notice that on July 14, 2000, Commonwealth Edison Company (ComEd), tendered for filing a Short-Term Firm Transmission Service Agreement with Cinergy Services, Inc., (CPMT) under the terms of ComEd's Open Access Transmission Tariff (OATT).

ComEd requests an effective date of June 15, 2000, for the Agreement with CPMT, and accordingly, seeks waiver of the Commission's notice requirements.

Comment date: August 4, 2000, in accordance with Standard Paragraph E at the end of this notice.

16. Southern Indiana Gas and Electric Company

[Docket No. ER00–3158–000]

Take notice that on July 14, 2000, Southern Indiana Gas and Electric Company (SIGECO), tendered for filing service agreements for firm and non-firm transmission service under Part II of its Transmission Services Tariff with Cargill-Alliant, LLC, The Legacy Energy Group, LLC, and Amerada Hess Corporation, respectively.

Copies of the filing were served upon each of the parties to the service agreement.

Comment date: August 4, 2000, in accordance with Standard Paragraph E at the end of this notice.

17. Indianapolis Power & Light Company

[Docket No. ER00–3159–000]

Take notice that on July 14, 2000, Indianapolis Power & Light Company (IPL), tendered for filing service agreements executed under IPL's Open Access Transmission Tariff and an index of customers.

Comment date: August 4, 2000, in accordance with Standard Paragraph E at the end of this notice.

18. NRG Energy Center Dover LLC, NEO Toledo-Gen LLC, NEO Freehold-Gen LLC and NEO Chester-Gen LLC

[Docket No. ER00–3160–000]

Take notice that on July 14, 2000, NRG Energy Center Dover LLC, NEO Toledo-Gen LLC, NEO Freehold-Gen LLC, and NEO Chester-Gen LLC (Sellers), limited liability companies organized under the laws of the State of Delaware, petitioned the Commission for an order: (1) Accepting Sellers' proposed FERC Electric Tariffs (Market-Based Rate Tariffs), (2) granting waiver of certain requirements under Subparts B and C of Part 35 of the Regulations, (3) granting the blanket approvals normally accorded sellers permitted to sell at market-based rates, and (4) granting waiver of the 60-day notice period. NRG Energy Center Dover LLC also requested acceptance of two long-term power sales agreements. Sellers are indirect subsidiaries of Northern States Power Company.

Comment date: August 4, 2000, in accordance with Standard Paragraph E at the end of this notice.

19. TXU Electric Company and TXU SESCO Company

[Docket No. ER00–2257–001]

Take notice that on July 14, 2000, TXU Electric Company and TXU SESCO Company (collectively TXU), tendered for filing revised tariff sheets for their revised Tariff for Transmission Service for Tex-La Electric Cooperative of Texas, Inc., to modify a tariff provision included in TXU's April 20, 2000 filing in Docket No. ER00–2257–000, in compliance with the Commission's June 14, 2000 order in that Docket.

Copies of the filing were served on the persons designated on the official service list compiled by the Secretary in this proceeding.

Comment date: August 4, 2000, in accordance with Standard Paragraph E at the end of this notice.

20. Orion Power MidWest, L.P.

[Docket No. ER00–2585–001]

Take notice that on July 13, 2000, Orion Power MidWest, L.P. (Orion Power MidWest), tendered for filing with the Federal Energy Regulatory Commission a revised long-term Energy Agency and Marketing Agreement with Duquesne Light Company, designated as Original Service Agreement No. 4 for the sale of energy under Orion Power MidWest's market-based rate tariff, FERC Electric Rate Tariff, Volume No. 1.

Comment date: August 3, 2000, in accordance with Standard Paragraph E at the end of this notice.

21. Alcoa Power Generating Inc.

[Docket No. ER00–2396–001]

Take notice that on July 14, 2000, Alcoa Power Generating Inc. (APGI), tendered for filing APGI's Procedure for Implementation of Standards of Conduct, APGI's Standards of Conduct, and an organizational chart depicting APGI's separation of transmission function employees from wholesale merchant function employees. APGI requested that the Commission accept its proposed Standards of Conduct for filing. APGI also informed the Commission that its Standards of Conduct were currently implemented and that its Open Access Same-Time Information System would become functional on March 15, 2000.

Comment date: August 4, 2000, in accordance with Standard Paragraph E at the end of this notice.

22. Avista Corporation

[Docket No. ER00–3019–000]

Take notice that on July 14, 2000, Puget Sound Energy, Inc. (Puget Sound) tendered for filing a Certificate of Concurrence to the Mutual Netting Agreement between Puget Sound and Avista Corporation (Avista) filed by Avista on June 30, 2000.

Puget Sound states that a copy of the filing was served upon Avista.

Comment date: August 4, 2000, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of these filings are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 00–18875 Filed 7–25–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 184–060]

El Dorado Irrigation District; Notice of Availability of Final Environmental Assessment

July 20, 2000.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission) regulations, 18 CFR Part 380 (Order No. 486, 52 FR 47897), the Office of Energy Projects has prepared a final environmental assessment (FEA). The FEA was prepared in support of Commission action on a proposed license amendment for the El Dorado Project. The proposed amendment would allow the reconstruction of the project's diversion dam and construction of a two-mile-long tunnel to bypass a section of the project's canal that is damaged and/or situated on unstable slopes. The FEA finds that approval of the proposed amendment, with staff's recommended mitigation measures, would not constitute a major federal action significantly affecting the quality of the human environment. The El Dorado Project is located on the South Fork of the American River, in El Dorado, Amador, and Alpine counties, California.

On March 24, 2000 the Commission staff issued a draft environmental assessment (DEA) for the project, and requested that comments be filed with the Commission within 45 days. Comments were filed by six entities and are addressed in the FEA for the project.

The FEA was written by staff in the Office of Energy Projects, Federal Energy Regulatory Commission. Copies of the DEA and FEA can be viewed at the Commission's Reference and Information Center, Room 2A, 888 First Street, N.E., Washington, D.C. 20426, or by calling 202–208–1371. The document can be viewed on the web at http://rimsweb1.ferc.fed.us/rims (call 202–208–2222 for assistance). Copies also can be obtained by calling the project manager, John Mudre, at (202) 219–1208.

David P. Boergers,

Secretary.

[FR Doc. 00–18876 Filed 7–25–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Amendment To License and Soliciting Comments, Motions to Intervene, and Protests

July 21, 2000.

Take notice that the following application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Amendment to License.

b. *Project No:* 2100–109.

c. *Date Filed:* February 16, 2000.

d. *Applicant:* California Department of Water Resources.

e. *Name of Project:* Feather River Hydroelectric Project.

f. *Location:* On the Feather River in Butte County, California. The project utilizes federal lands including the Plumas National Forest, Lassen National Forest, and the tribal lands of the Enterprise Band of the Maidu Indians.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Raymond D. Hart, Deputy Director, California Department of Water Resources, 1416 Ninth Street, P.O. Box 942836, Sacramento, CA 94236–0001, (916) 653–5791.

i. *FERC Contact:* Any questions on this notice should be addressed to Timothy Welch at (202) 219–2666, or e-mail address: Timothy.Welch@ferc.fed.us.

j. *Deadline for filing comments and or motions:* September 1, 2000.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, DC 20426.

Please include the project number (2100–109) on any comments or motions filed.

k. *Description of Proposal:* Since 1993, at Lake Oroville, the applicant has been implementing fish habitat enhancement projects, gathering biological/fishery data, and assisting the California Department of Fish and Game with fish rearing, stocking, and development management protocols as required by Commission order issued September 22, 1994. By Commission order issued May 10, 1999, the applicant is currently required to stock no more than 250,000 yearling chinook salmon as an interim and annual stocking rate. Based on its studies, the applicant proposes a final annual stocking rate of 170,000 yearling chinook salmon for the remainder of the license term.

l. Locations of the Application: A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE, Room 2A, Washington, DC. 20426, or by calling (202) 208–1371. This filing may be viewed on http:www.fed.us/online/rims.htm (call (202) 208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item h above.

m. Individuals desiring to be included in the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

Filing and Service of Responsive Documents—Any filing's must bear in all capital letters the title ''COMMENTS'', ''RECOMMENDATIONS FOR TERMS AND CONDITIONS'', ''PROTEST'', OR ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC., 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

David P. Boergers,

Secretary.

[FR Doc. 00–18879 Filed 7–25–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Western Area Power Administration

2005 Resource Pool

AGENCY: Western Area Power Administration, DOE.

ACTION: Notice of final power allocations.

SUMMARY: The Western Area Power Administration (Western), a Federal power marketing administration of DOE, published its 2004 Power Marketing Plan (Marketing Plan) for the Sierra Nevada Customer Service Region (Sierra Nevada Region) in the **Federal Register**. The Marketing Plan specifies terms and conditions under which Western will market power from the Central Valley Project (CVP) and the Washoe Project beginning January 1, 2005. The Marketing Plan sets aside a portion of the Sierra Nevada Region's marketable power resources to establish a 2005 Resource Pool for new power allocations. Western published a Call for 2005 Resource Pool Applications, a Notice of Extension to file applications, and Proposed 2005 Resource Pool Allocations in the **Federal Register**. The formal comment period on the proposed power allocations from the 2005 Resource Pool ended on July 5, 2000. A discussion of comments received is included in this notice. After considering all comments, Western has decided to finalize the proposed power allocations. This notice sets forth Western's final allocations of power from the 2005 Resource Pool.

DATES: The final 2005 Resource Pool allocations will become effective on August 25, 2000.

FOR FURTHER INFORMATION CONTACT: Howard Hirahara, Power Marketing Manager, Western Area Power Administration, Sierra Nevada Customer Service Region, 114 Parkshore Drive, Folsom, CA 95630–4710, (916) 353–4421, hirahara@wapa.gov.

SUPPLEMENTARY INFORMATION:

Authorities

Pursuant to its authorities under the Department of Energy Organization Act (42 U.S.C. 7101–7352); the Reclamation Act of June 17, 1902 (ch. 1093, 32 Stat. 388) as amended and supplemented by subsequent enactments, particularly section 9(c) of the Reclamation Project Act of 1939 (43 U.S.C. 485(c)); and other acts specifically applicable to the projects involved, Western established the Marketing Plan for sale of power by the Sierra Nevada Region after 2004. On June 25, 1999, Western published the Marketing Plan in the **Federal Register** (64 FR 34417), describing how the Sierra Nevada Region will market its power resources beginning January 1, 2005, through December 31, 2024. Pursuant to Western's authorities under the above acts and applying the rules developed in the Marketing Plan, Western publishes its final allocations of power from the 2005 Resource Pool in this notice.

Regulatory Procedural Requirements

Western addressed the regulatory procedure requirements in its rulemaking for the Marketing Plan (64 FR 34417). The proposed allocation of power in this notice is an application of the Marketing Plan and is not a separate rulemaking.

Background

On October 19, 1999, Western published the Call for 2005 Resource Pool Applications in the **Federal Register** (64 FR 56343). On December 9, 1999, Western published a Notice of Extension in the **Federal Register** (64 FR 69018). The Call for 2005 Resource Pool Applications required that applications be submitted by December 20, 1999, and the Notice of Extension extended the filing date by 30 days to January 19, 2000. On June 5, 2000, Western published the Proposed 2005 Resource Pool Applications in the **Federal Register** (65 FR 35630).

CVP power facilities are operated by the United States Department of the Interior, Bureau of Reclamation (Reclamation), and include 11 powerplants with a maximum operating capability of about 2,044 megawatts (MW), and an estimated average annual generation of 4.6 million megawatthours (MWh). Western markets and transmits power available from the CVP.

The Washoe Project's Stampede Powerplant is also operated by Reclamation and has a maximum operating capability of 3.65 MW with an estimated annual generation of 10,000 MWh. The Sierra Pacific Power Company owns and operates the only transmission system available for access to the Stampede Powerplant.

Western owns the 94 circuit-mile Malin-Round Mountain 500-kilovolt (kV) transmission line (an integral section of the Pacific Northwest-Pacific Southwest Intertie), 803 circuit miles of 230-kV transmission line, 7 circuit miles of 115-kV transmission line, and 44 circuit miles of 69-kV and below transmission line. Western also has part ownership in the 342-mile California-Oregon Transmission Project. Many of Western's existing customers have no direct access to Western's transmission lines and receive service over

transmission lines owned by other utilities.

Responses to Comments Received on the Notice of Proposed 2005 Resource Pool Allocations (65 FR 35630, June 5, 2000)

During the comment period, Western received one letter commenting on the proposed allocations from the 2005 Resource Pool. Western reviewed and considered all comments made in this letter.

Comment: The commentor said that it was unclear in the notice what method Western used in determining how much allocation each eligible applicant received. Also, the commentor requested that an existing customer receive a greater allocation based on ''the ratio of an existing customer's load not served by its current CRD allocation.''

Response: Under the Marketing Plan, Western used its discretion to allocate power to applicants that meet the eligibility and allocation criteria set forth in the Marketing Plan. The amount of power each eligible existing customer currently receives from Western was a consideration.

Comment: The commentor stated that new customers should not have a larger percentage of their load served by CVP than an existing customer.

Response: Artificially constraining allocations to new customers would defeat the purpose of the Power Marketing Initiative under the Energy Planning and Management Program (60 FR 54151, October 20, 1995), which led to establishing the Resource Pool. One of the primary reasons for establishing a Resource Pool was to promote the widespread use of Federal hydroelectric power among preference entities.

Final 2005 Resource Pool Allocations

Allocations are expressed as a percentage of the marketable resource. For illustrative purposes only, megawatt amounts are given assuming variable amounts of Base Resource. Allottees to receive power from the 2005 Resource Pool, allocations expressed as percentages of the Base Resource, and the megawatt amount of each allocation assuming a Base Resource of 500 MW, 1000 MW, and 1500 MW are listed here:

Allottees	Percent	Base resource		
		500 MW (MW)	1000 MW (MW)	1500 MW (MW)
Bay Area Rapid Transit District	0.147	0.735	1.470	2.205
California State Universities (11 campuses)	0.221	1.105	2.210	3.315
California State University, Sacramento	0.092	0.460	0.920	1.380
Cawelo Water District	0.029	0.145	0.290	0.435
Coyote Valley Tribe of Pomo Indians	0.055	0.275	0.550	0.825
East Bay Municipal Utility District	0.054	0.270	0.540	0.810
Fallon, City of	0.221	1.105	2.210	3.315
Healdsburg, City of	0.087	0.435	0.870	1.305
Lassen Municipal Utility District	0.105	0.525	1.050	1.575
Lodi, City of	0.147	0.735	1.470	2.205
Lompoc, City of	0.120	0.600	1.200	1.800
Modesto Irrigation District	0.147	0.735	1.470	2.205
Placer County Water Agency	0.039	0.195	0.390	0.585
Reclamation District No. 108	0.043	0.215	0.430	0.645
Redding Rancheria	0.037	0.185	0.370	0.555
San Francisco, City and County of	0.147	0.735	1.470	2.205
Sonoma County Water Agency	0.028	0.140	0.280	0.420
Southern San Joaquin Municipal Utility District	0.037	0.185	0.370	0.555
Susanville Indian Rancheria	0.103	0.515	1.030	1.545
Table Mountain Rancheria	0.147	0.735	1.470	2.205
Truckee Donner Public Utility District	0.220	1.100	2.200	3.300
Turlock Irrigation District	0.128	0.640	1.280	1.920
University of California, Berkeley	0.221	1.105	2.210	3.315
University of California, San Francisco	0.175	0.875	1.750	2.625
Total	2.750	13.750	27.500	41.250

Contracting Process

After the effective date of this notice, Western will begin the contracting process with allottees who are not currently customers. Existing customers who received power allocations from the 2005 Resource Pool will receive a revised Exhibit A to their electric service Base Resource contracts, increasing their percentage of the Base Resource. Allottees must execute an electric service contract to purchase the Base Resource no later than December 31, 2000, unless otherwise agreed to in writing by Western. If requested, Western will work with customers to develop a custom product to meet their needs. Custom products are described in the Marketing Plan. Allottees must execute a contract to purchase the custom product, if desired, no later than December 31, 2002, unless otherwise agreed to in writing by Western. The date of initial service under these contracts is January 1, 2005. Contracts will remain in effect until midnight of December 31, 2024. Western will also establish a 2015 Resource Pool for new allocations under a separate public process.

Dated: July 17, 2000.

Michael S. Hacskaylo,

Administrator.

[FR Doc. 00–18870 Filed 7–25–00; 8:45 am]

BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6841–4]

Land Disposal Restrictions: Notice of Intent To Grant a Site-Specific Treatment Variance to Safety-Kleen (Deer Park), Inc.

AGENCY: Environmental Protection Agency.

ACTION: Notice of intent to grant petition.

SUMMARY: The Environmental Protection Agency (EPA or Agency) is today announcing our intent to grant a site-specific treatment variance from the Land Disposal Restrictions (LDR) treatment standards for approximately 2850 cubic yards of hazardous waste that Safety-Kleen (Deer Park), Inc. is currently storing at its Deer Park, Texas facility. Safety-Kleen requests this one-time variance because the waste cannot be treated to the interim K088 total arsenic standard of 26.1 mg/kg. Furthermore, a portion of the waste cannot meet the 28 mg/kg total dithiocarbamates treatment standard for the waste codes K161, P196, and P205. If we grant this one-time petition, Safety-Kleen may dispose of this waste in its on-site RCRA Subtitle C landfill provided the waste complies with the specified alternative treatment standards described in this notice and all other applicable LDR treatment standards.

DATES: This one-time variance is effective on August 25, 2000, unless we receive relevant adverse comment by August 16, 2000. If we receive such comment(s), we will publish a timely notice in the **Federal Register** informing the public that this one-time variance will not be automatically granted and indicating the further steps that will be taken.

ADDRESSES: If you wish to comment on this notice, you must send an original and two copies of the comments referencing Docket Number F–2000–SKVP–FFFFF to: (1) if using regular U.S. Postal Service mail: RCRA Docket Information Center, Office of Solid Waste (5305G), U.S. Environmental Protection Agency Headquarters (EPA, HQ), 1200 Pennsylvania Avenue, NW, Washington, DC 20460–0002, or (2) if using special delivery, such as overnight express service: RCRA Docket Information Center (RIC), Crystal Gateway One, 1235 Jefferson Davis Highway, First Floor, Arlington, VA 22202. You may also submit comments electronically by sending electronic mail through the Internet to: rcra-docket@epa.gov. You should identify comments in electronic format with the docket number F–2000–SKVP–FFFFF. You must submit all electronic comments as an ASCII (text) file, avoiding the use of special characters or any type of encryption.

You should not submit electronically any confidential business information (CBI). You must submit an original and two copies of CBI under separate cover to: RCRA CBI Document Control Officer, Office of Solid Waste (5305W), U.S. EPA, 1200 Pennsylvania Avenue, NW, Washington, DC 20460–0002.

You may view public comments and supporting materials in the RCRA Information Center (RIC), located at Crystal Gateway I, First Floor, 1235 Jefferson Davis Highway, Arlington, VA. The RIC is open from 9 am to 4 pm Monday through Friday, excluding federal holidays. To review docket materials, we recommend that you make an appointment by calling 703–603–9230. You may copy up to 100 pages from any regulatory document at no charge. Additional copies cost $ 0.15 per page. (The index and some supporting materials are available electronically. See the ''Supplementary Information'' section for information on accessing them).

FOR FURTHER INFORMATION CONTACT: For general information, call the RCRA Hotline at 1–800–424–9346 or TDD 1–800–553–7672 (hearing impaired). Callers within the Washington Metropolitan Area must dial 703–412–9810 or TDD 703–412–3323 (hearing impaired). The RCRA Hotline is open Monday–Friday, 9 am to 6 pm, Eastern Standard Time. For more detailed information on specific aspects of this notice of intent, contact Josh Lewis at 703–308–7877, lewis.josh@epa.gov, or write him at the Office of Solid Waste, 5302W, U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW, Washington, DC 20460–0002.

SUPPLEMENTARY INFORMATION: The index and selected supporting materials are available on the Internet. You can find these materials at: http://www.epa.gov/epaoswer/osw/hazwaste.htm#ldr.

The official record for this action will be kept in the paper form. Accordingly, EPA will transfer all comments received electronically into paper form and place them in the official record which will also include all comments submitted directly in writing. The official record is the paper record maintained at the RIC listed in the **ADDRESSES** section at the beginning of this document.

EPA responses to comments, whether the comments are written or electronic, will be in a notice in the **Federal Register** or in a response to comments document placed in the official record for this notice. EPA will not immediately reply to commenters electronically other than to seek clarification of electronic comments that may be garbled in transmission or during conversion to paper form, as discussed above.

A. Authority

Under section 3004(m) of the Resource Conservation and Recovery Act (RCRA), EPA is required to set ''levels or methods of treatment, if any, which substantially diminish the toxicity of the waste or substantially reduce the likelihood of migration of hazardous constituents from the waste so that short-term and long-term threats to human health and the environment are minimized.'' EPA has interpreted this language to authorize treatment standards based on the performance of best demonstrated available technology (BDAT). This interpretation was sustained by the court in Hazardous Waste Treatment Council vs. EPA, 886 F. 2d 355 (D.C. Cir. 1989). The Agency has recognized that there may be wastes that cannot be treated to levels specified in the regulations (see 40 CFR 268.40) because an individual waste matrix or concentration can be substantially more difficult to treat than those wastes the Agency evaluated in establishing the treatment standard (51 FR 40576, November 7, 1986). For such wastes, EPA established a treatment variance (40 CFR 268.44) that, if granted, becomes the treatment standard for the waste at issue.

II. Basis for Determination

Under 40 CFR 268.44 (h), EPA allows facilities to apply for a site-specific variance in cases where a waste that is generated under conditions specific to a site cannot be treated to the specified levels. In such cases, the generator or treatment facility may apply to the Administrator, or EPA's delegated representative, for a site-specific variance from a treatment standard. The applicant for a site-specific variance must demonstrate that, because the physical or chemical properties of the waste differ significantly from the waste analyzed in developing the treatment standard, the waste cannot be treated to the specified level or by the specified method. Note that there are other grounds for obtaining treatment variances, but this is the only provision relevant to the present petition.

Safety-Kleen (Deer Park), Inc. (''Safety-Kleen'') formally submitted its request for a treatment variance from the interim K088 total arsenic treatment

standard in March 1999. The request was for approximately 2850 cubic yards of hazardous waste. In a subsequent submittal of information, Safety-Kleen requested a variance from the total dithiocarbamate treatment standard for a portion of this fixed quantity of waste. All of the information and data used in the development of this notice can be found in the RCRA docket.

A. Establishment of Treatment Standards for K088

K088, the EPA waste code for spent potliners from primary aluminum reduction (see 40 CFR 261.32), is generated by the aluminum manufacturing industry. Aluminum production occurs in four distinct steps: (1) Mining of bauxite ores; (2) refining of bauxite to produce alumina; (3) reduction of alumina to aluminum metal; and (4) casting of the molten aluminum. Bauxite is refined by dissolving alumina (aluminum oxide) in a molten cryolite bath. Next, alumina is reduced to aluminum metal. This reduction process requires high purity aluminum oxide, carbon, electrical power, and an electrolytic cell. An electric current reduces the alumina to aluminum metal in electrolytic cells, called pots. These pots consist of a steel shell lined with brick with an inner lining of carbon. During the pot's service, the liner is physically and chemically degraded. Upon failure of a liner in a pot, the cell is emptied, cooled, and the lining is removed.

The Phase III LDR rule (61 FR 15566, April 8, 1996) established treatment standards, expressed as numerical concentration limits, for various hazardous constituents in spent potliner waste. There were 25 in all, with standards for both wastewaters and nonwastewaters. These constituents include arsenic, cyanide, fluoride, toxic metals, and a group of organic compounds called polycyclic aromatic hydrocarbons (PAHs). The standards were based on treatment performance data from Reynolds Metal Company, which uses a high-temperature thermal process to treat the degraded potliners that are broken up into various size pieces prior to treatment.

After EPA published its final treatment standards, Columbia Falls Aluminum Company and other aluminum producers from the Pacific Northwest brought a judicial challenge to the standards. The petitioners argued, among other things, that the use of the toxicity characteristic leaching procedure (TCLP) did not accurately predict the leaching of K088 waste constituents, particularly arsenic and fluoride, to the environment and that it was therefore arbitrary to measure compliance with the treatment standard using this test.

On April 3, 1998, the United States Court of Appeals for the District of Columbia Circuit decided that EPA's use of the TCLP as a basis for setting treatment standards for K088 was arbitrary and capricious for those constituents for which the TCLP demonstratively and significantly underpredicted the amount of the constituent that would leach. See 139 F.3d 914; see also 63 FR 28571, May 26, 1998 (EPA's interpretation of court's opinion). The court vacated all of the treatment standards and the prohibition on land disposal. *Id.* at 923–24. After an interim stay, on September 24, 1998, EPA promulgated an interim final rule that revised the K088 treatment standard for arsenic from a TCLP standard of 5.0 mg/l to a total arsenic standard of 26.1 mg/kg. See 63 FR 51253. It is this interim adjustment of the arsenic K088 treatment standard from which Safety-Kleen seeks relief by way of this treatment variance.

B. Chemical Properties and Treatability Information on Safety-Kleen's Waste

The waste at issue consists of about 2850 cubic yards of incineration residues (ash or wastewater treatment plant scrubber sludge filter cake) that are in storage at the Safety-Kleen Deer Park facility. The waste carries many EPA hazardous waste codes, one of which is K088. Safety-Kleen's K088 waste, however, is significantly different, both physically and chemically, from the waste used to set the K088 treatment standard. The waste that is initially incinerated by Safety-Kleen consists of various non-potliner materials (*e.g.*, tank wash water, bin liners, laboratory waste) that have been in contact with K088 waste prior to incineration but carry the K088 waste code solely because of the ''mixture'' and ''derived-from'' rules. Neither the incoming wastes nor the treatment residues bear any resemblance to the degraded potliners that are the original K088 waste form. Of course, as described below, we have examined the constituents of concern that could have been transferred from the K088 waste itself to these wash waters, bin liners, and lab wastes and to the residues from the treatment of these wastes.

Safety-Kleen sampled and analyzed ten grab samples of 25 cubic yard bins containing the waste treatment residues. The TCLP values for all of the K088 regulated hazardous constituents (save one) in the analyzed samples are below the detection limit. However, because of arsenic contamination from wastes other than K088 (*e.g.*, the characteristic arsenic waste code D004), nine of the ten Safety-Kleen samples do not meet the interim K088 total arsenic standard of 26.1 mg/kg. The total arsenic concentrations (in mg/kg) of the ten samples are: non-detect, 7.7 (duplicate), 88, 210, 41, 47, 57, 92 (duplicate), 100, 130, 110, and 88.

A second issue concerning dithiocarbamates arises with respect to 500 of the 2850 cubic yards of the Safety-Kleen waste treatment residues. This portion of the waste residuals carries the waste codes K161, P196, and P205. [1] These three waste codes all have total dithiocarbamates as one of the constituents that requires treatment.

The 500 cubic yards cannot meet the current total dithiocarbamates treatment standard of 28 mg/kg because Safety-Kleen uses Betz 5636, a liquid anionic polymer that contains about 18–20% total dithiocarbamates, to precipitate metals out of the scrubber water that is generated from Safety-Kleen's incineration process. Because the Betz 5636 is added in the post-combustion scrubber water, the scrubber sludge filter cake has a base load of total dithiocarbamates as high as 132 mg/kg, which is above the total dithiocarbamates treatment standard of 28 mg/kg. Because LDR compliance testing is performed on treatment residuals after all the treatment steps are performed, there is no practical way to discriminate between the regulated dithiocarbamate coming from any K161, P196, and P205 waste versus the unregulated dithiocarbamate coming from the use of the Betz 5636 product. [2]

III. Alternative Treatment Standards for Safety-Kleen's Waste

A. Alternative Standard for Arsenic

As discussed in the previous section, Safety-Kleen's waste is not K088 itself and is also significantly different, both physically and chemically, from the K088 waste used in developing the K088 treatment standards. Specifically,

[1] K161 is the waste code for purification solids (including filtration, evaporation, and centrifugation solids), baghouse dust and floor sweepings from the production of dithiocarbamate acids and their salts, P196 for manganese dimethyldithiocarbamate, and P205 for ziram.

[2] In the Emergency Revision of the LDR Treatment Standards for Listed Hazardous Wastes from Carbamate Production; Final Rule (63 FR 47409, September 4, 1998), we note that the EPA analytical method for total dithiocarbamates, Method 630, determines total dithiocarbamates after conversion of the dithiocarbamates to carbon disulfide and measurement of the carbon disulfide. We further state that the method does not distinguish individual dithiocarbamate compounds. Therefore, use of the method on Safety-Kleen's scrubber water filter cake measures both regulated and unregulated dithiocarbamates.

Safety-Kleen's waste contains other waste codes (*e.g.*, D004) that contribute to the total arsenic concentration of the waste. Therefore, it is not physically possible for Safety-Kleen to treat the waste to the K088 treatment standard of 26.1 mg/kg total arsenic. Instead, we are proposing that the 2850 cubic yards of waste comply with an alternative treatment standard for arsenic of 5.0 mg/L. This is, of course, the current universal treatment standard (UTS) for arsenic that would otherwise apply to this waste were it not for the K088 waste code carry through. After treatment, the waste is to be disposed in Safety-Kleen's North landfill, which is a RCRA permitted hazardous waste landfill.

B. Alternative Standard for Total Dithiocarbamates

For the 500 cubic yards of the waste that cannot meet the total dithiocarbamate treatment standard of 28 mg/kg developed for K161, P196, and P205, we are proposing to allow Safety-Kleen to dispose of the 500 cubic yards without further treatment for several reasons. First, any K161, P196, and P205 waste being handled by Safety-Kleen at Deer Park has already been incinerated. This satisfies the applicable regulatory requirements regarding this waste, and incineration is the best, demonstrated, and available treatment technology for these wastes and the types of regulated dithiocarbamates in them.

Second, the only reason why dithiocarbamates is an issue for these wastes is that the testing for compliance with the K161, P196, and P205 treatment standards occurs on treatment residuals sampled downstream of the scrubber water precipitation process. Non-regulated dithiocarbamate product added at that point presumably is the vast majority of any detectable dithiocarbamate, since at least 99.99% of any dithiocarbamate residing in the K161, P196, and P205 waste would be expected to have been destroyed in the combustion chamber.

Third, the dithiocarbamate issue only arises for this 500 cubic yards of waste because of an independent change in EPA regulations. Prior to March 4, 1999, the treatment standard for total dithiocarbamates in nonwastewaters was a specified method of treatment: CMBST, or combustion. [3] On March 4, 1999, we revised the treatment standards for seven carbamate waste constituents so that they are now expressed as both numerical limits as well as specified technologies; removed all treatment standards for one additional waste constituent; and reinstated numerical treatment standards for 32 other carbamate waste constituents. (See 63 FR 47409).

Safety-Kleen was aware of the potential treatment problems that this reinstatement of the numerical treatment standards for total dithiocarbamates would cause, namely that the downstream residual testing of its incinerator treatment residuals would pick up non-regulated dithiocarbamates in addition to any trace amounts of regulated dithiocarbamates. On its part, Safety-Kleen instituted timely measures to avoid these problems. Starting on August 12, 1998, Safety-Kleen stopped accepting waste carrying EPA codes K161, P196, and P205. The facility's plan was to incinerate all of the dithiocarbamates waste in its inventory and landfill the residues prior to the effective date of our institution of numerical, concentration standards for total dithiocarbamates, *i.e.,* March 4, 1999. However, this solution was compromised when EPA changed the TCLP-based arsenic K088 treatment standard to 26.1 mg/kg total arsenic on September 21, 1998. The 500 cubic yards of waste with the dithiocarbamate problem also carry the K088 waste code, fail the total arsenic standard for reasons addressed earlier, and therefore could not be landfilled prior to the March 4, 1999 target date for Safety-Kleen. EPA was not fully aware, at that time, about this linkage and the unforeseen consequence of changing the arsenic treatment standard for K088 on August 12, 1998, some seven months earlier than the revised dithiocarbamate standards went into effect—a date on which Safety-Kleen's disposal plans hinged.

We are therefore proposing to better harmonize the impacts of the two independent treatment standard changes that impact the 500 yards of Safety-Kleen's waste now being stored. Our avenue for relief is to propose to allow the 500 cubic yards of dithiocarbamate contaminated waste to be disposed without further treatment for the reasons discussed above. Our treatment objectives have already been achieved for K161, P196, and P205. Safety-Kleen has treated these wastes by the specified method of combustion and the regulated dithiocarbamates have been addressed in a manner that protects human health and the environment. Also, in light of Safety-Kleen's good faith effort to effectively treat and legally dispose of these wastes prior to March 4, 1999, we deem it appropriate to grant relief from the unintended consequences of our independent action to revise the K088 arsenic standard.

C. Conditions of the Proposed Variance

In summary, if we grant this one-time treatment variance, the approximately 2850 cubic yards of incinerator residues currently stored at Safety-Kleen's Deer Park facility would be subject to an alternative arsenic treatment standard of 5.0 mg/L. Furthermore, the 500 cubic yards of the waste that do not currently meet the total dithiocarbamates treatment standard of 28 mg/kg can be disposed at their current concentrations (which can be as high as 132 mg/kg) without further treatment. Finally, the waste would have to be disposed in Safety-Kleen's on-site Subtitle C landfill assuming it meets all other applicable federal, state, and local requirements.

Dated: July 20, 2000.

Timothy Fields, Jr.,

Assistant Adminstrator, Office of Solid Waste and Emergency Response.

[FR Doc. 00–18906 Filed 7–25–00; 8:45 am]

BILLING CODE 6560–50–P

[3] After promulgation of the Phase III rule on April 8, 1996 (but before the effective date of July 8, 1996) several companies reported that laboratory standards were not available for some of the carbamate waste constituents. After confirming this assertion, we promulgated an emergency final rule on August 26, 1996 (61 FR 43924) in which we established temporary alternative treatment standards for 40 carbamate waste constituents for a one-year period. These alternative standards provided waste handlers a choice of meeting the original Phase III numerical concentration limits or of using a specified treatment technology (combustion for nonwastewaters; combustion, biodegradation, chemical oxidation, or carbon adsorption for wastewaters). The laboratory standards were still unavailable at the end of the one year, so we extended the alternative treatment standards for one additional year until August 26, 1998 (62 FR 45568, August 28, 1998). A September 4, 1998 final rule resolved the issue by revising the treatment standards for seven carbamate waste constituents so that they are now expressed as both numerical limits as well as specified technologies; removing all treatment standards for one additional waste constituent; and reinstating numerical treatment standards for 32 other carbamate waste constituents (*see* 63 FR 47409; effective on March 4, 1999).

ENVIRONMENTAL PROTECTION AGENCY

[OPP–30497; FRL–6595–8]

Pesticide Products; Registration Applications

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces receipt of an application to register a pesticide product involving a changed use pattern pursuant to the provisions of section 3(c)(4) of the Federal Insecticide,

Fungicide, and Rodenticide Act (FIFRA), as amended.

DATES: Written comments, identified by the docket control number OPP–30497, must be received on or before August 25, 2000.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I. of the **SUPPLEMENTARY INFORMATION.** To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP–30497 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: Suku Oonnithan, Regulatory Action Leader, Registration Division (7505C), Office of Pesticide Programs Environmental Protection Agency, 1200 Pennsylvania Ave, NW., Washington, DC 20460–0001; telephone: 703–605–0368; e-mail address: oonnithan.suku@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected categories and entities may include, but are not limited to:

Categories	NAICS codes	Examples of potentially affected entities
Industry	111 112 311 32532	Crop production Animal production Food manufacturing Pesticide manufacturing

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in the table could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this action might apply to certain entities. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select ''Laws and Regulations'' and then look up the entry for this document under the ''**Federal Register**—Environmental Documents.'' You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

2. *In person.* The Agency has established an official record for this action under docket control number OPP–30497. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as confidential business information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

C. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP–30497 in the subject line on the first page of your response.

1. *By mail.* Submit your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

2. *In person or by courier.* Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA. The PIRIB is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

3. *Electronically.* You may submit your comments electronically by e-mail to: ''opp-docket@epa.gov,'' or you can submit a computer disk as described above. Do not submit any information electronically that you consider to be CBI. Avoid the use of special characters and any form of encryption. Electronic submissions will be accepted in WordPerfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by docket control number OPP–30497. Electronic comments may also be filed online at many Federal Depository Libraries.

D. How Should I Handle CBI that I Want to Submit to the Agency?

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person identified under **FOR FURTHER INFORMATION CONTACT.**

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.

2. Describe any assumptions that you used.

3. Provide copies of any technical information and/or data you used that support your views.

4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.

5. Provide specific examples to illustrate your concerns.

6. Offer alternative ways to improve the registration activity.

7. Make sure to submit your comments by the deadline in this notice.

8. To ensure proper receipt by EPA, be sure to identify the docket control number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. Registration Application

EPA received an application as follows to register a pesticide product containing active ingredients not included in any previously registered products pursuant to the provision of section 3(c)(4) of FIFRA. Notice of receipt of the application does not imply a decision by the Agency on the application.

Product Containing the Active Ingredient (Phosphine) Involving a Changed Use Pattern

EPA Reg. No. 68387–7. Applicant: CYTEC Industries, Inc., West Patterson, NJ 07424. Product name: ECO2FUME Fumigant Gas. Insecticide. Active Ingredients: Phosphine at 2% and carbon dioxide at 98%. Classification: Restricted use. Proposed change: To include in its presently registered non-food use; new uses: as a fumigant against insect pests of raw agricultural commodities, packaged processed food, and feed commodities.

List of Subjects

Environmental protection, Pesticides and pest.

Dated: July 12, 2000.

James Jones,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 00–18929 Filed 7–25–00; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[OPP–34216A; FRL–6737–3]

Organophosphate Pesticide; Availability of Revised Risk Assessments

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notices announces the availability of the revised risk assessments and related documents for one organophosphate pesticide, phosalone. In addition, this notice starts a 60–day public participation period during which the public is encouraged to submit risk management ideas or proposals. These actions are in response to a joint initiative between EPA and the Department of Agriculture (USDA) to increase transparency in the tolerance reassessment process for organophosphate pesticides.

DATES: Comments, identified by docket control number OPP–34216A, must be received by EPA on or before September 25, 2000.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit III. of the **SUPPLEMENTARY INFORMATION.** To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP–34216A in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: Karen Angulo, Special Review and Reregistration Division (7508C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 308–8004; e-mail address: angulo.karen@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Does this Action Apply to Me?

This action is directed to the public in general, nevertheless, a wide range of stakeholders will be interested in obtaining the revised risk assessments and submitting risk management comments on phosalone, including environmental, human health, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the use of pesticides on food. As such, the Agency has not attempted to specifically describe all the entities potentially affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

II. How Can I Get Additional Information, Including Copies of this Document or Other Related Documents?

A. *Electronically*. You may obtain electronic copies of this document and other related documents from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select ''Laws and Regulations'' ''Regulations and Proposed Rules'' and then look up the entry for this document under the ''**Federal Register**—Environmental Documents.'' You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

To access information about organophosphate pesticides and obtain electronic copies of the revised risk assessments and related documents mentioned in this notice, you can also go directly to the Home Page for the Office of Pesticide Programs (OPP) at http://www.epa.gov/pesticides/op/.

B. *In person*. The Agency has established an official record for this action under docket control number OPP–34216A. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as CBI. This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

III. How Can I Respond to this Action?

A. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP–34216A in the subject line on the first page of your response.

1. *By mail*. Submit comments to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

2. *In person or by courier*. Deliver comments to: Public Information and Records Integrity Branch, Information Resources and Services Division, Office of Pesticide Programs, Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. The PIRIB is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

3. *Electronically*. Submit electronic comments by e-mail to: opp-

docket@epa.gov, or you can submit a computer disk as described in this unit. Do not submit any information electronically that you consider to be CBI. Electronic comments must be submitted as an ASCII file, avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on standard computer disks in WordPerfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by the docket control number OPP–34216A. Electronic comments may also be filed online at many Federal Depository Libraries.

B. How Should I Handle CBI Information that I Want to Submit to the Agency?

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

IV. What Action is EPA Taking in this Notice?

EPA is making available for public viewing the revised risk assessments and related documents for one organophosphate, phosalone. These documents have been developed as part of the pilot public participation process that EPA and USDA are now using for involving the public in the reassessment of pesticide tolerances under the Food Quality Protection Act (FQPA), and the reregistration of individual organophosphate pesticides under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). The pilot public participation process was developed as part of the EPA–-USDA Tolerance Reassessment Advisory Committee (TRAC), which was established in April 1998, as a subcommittee under the auspices of EPA's National Advisory Council for Environmental Policy and Technology. A goal of the pilot public participation process is to find a more effective way for the public to participate at critical junctures in the Agency's development of organophosphate risk assessments and risk management decisions. EPA and USDA began implementing this pilot process in August 1998, to increase transparency and opportunities for stakeholder consultation. The documents being released to the public through this notice provide information on the revisions that were made to the phosalone preliminary risk assessments, which where released to the public January 12, 2000 (65 FR 1867) (FRL–6486–9), through a notice in the **Federal Register**.

In addition, this notice starts a 60–day public participation period during which the public is encouraged to submit risk management proposals or otherwise comment on risk management for phosalone. The Agency is providing an opportunity, through this notice, for interested parties to provide written risk management proposals or ideas to the Agency on the chemical specified in this notice. Such comments and proposals could address ideas about how to manage dietary, occupational, or ecological risks on specific phosalone use sites or crops across the United States or in a particular geographic region of the country. To address dietary risk, for example, commenters may choose to discuss the feasibility of lower application rates, increasing the time interval between application and harvest (''pre–harvest intervals''), modifications in use, or suggest alternative measures to reduce residues contributing to dietary exposure. For occupational risks, commenters may suggest personal protective equipment or technologies to reduce exposure to workers and pesticide handlers. For ecological risks, commenters may suggest ways to reduce environmental exposure, e.g., exposure to birds, fish, mammals, and other non–target organisms. EPA will provide other opportunities for public participation and comment on issues associated with the organophosphate tolerance reassessment program. Failure to participate or comment as part of this opportunity will in no way prejudice or limit a commenter's opportunity to participate fully in later notice and comment processes. All comments and proposals must be received by EPA on or before September 25, 2000 at the addresses given under the **ADDRESSES** section. Comments and proposals will become part of the Agency record for the organophosphate specified in this notice.

List of Subjects

Environmental protection, Chemicals, Pesticides and pests.

Dated: July 20, 2000.

Lois A. Rossi,

Director, Special Review and Reregistration Division, Office of Pesticide Programs.

[FR Doc. 00–18930 Filed 7–25–00; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[OPP–30458A; FRL–6591–4]

Pesticide Product; Registration Approval

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces Agency approval of applications to conditionally register the pesticide products Prohexadione Calcium Manufacturing Use Product, Apogee Plant Growth Regulator, and Baseline Plant Regulator containing an active ingredient not included in any previously registered product pursuant to the provisions of section 3(c)(7)(C) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

DATES: Written comments, identified by the docket control number OPP–30458A, must be received on or before August 25, 2000.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I. of the **SUPPLEMENTARY INFORMATION.** To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP–30458A in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Cynthia Giles-Parker, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 305–7740; and e-mail address: giles-parker.cynthia@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected categories and entities may include, but are not limited to:

Categories	NAICS codes	Examples of potentially affected entities
Industry	111 112 311 32532	Crop production Animal production Food manufacturing Pesticide manufacturing

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in the table could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this action might apply to certain entities. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select ''Laws and Regulations'' and then look up the entry for this document under the ''**Federal Register**—Environmental Documents.'' You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

To access a fact sheet which provides more detail on this registration, go to the Home Page for the Office of Pesticide Programs at http://www.epa.gov/pesticides/, and select ''fact sheet.''

2. *In person.* The Agency has established an official record for this action under docket control number OPP–30458A. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as confidential business information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

In accordance with section 3(c)(2) of FIFRA, a copy of the approved label, the list of data references, the data and other scientific information used to support registration, except for material specifically protected by section 10 of FIFRA, are also available for public inspection. Requests for data must be made in accordance with the provisions of the Freedom of Information Act and must be addressed to the Freedom of Information Office (A-101), 1200 Pennsylvania Ave., NW., Washington, DC 20460. The request should: Identify the product name and registration number and specify the data or information desired.

A paper copy of the fact sheet, which provides more detail on this registration, may be obtained from the National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, VA 22161.

C. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP–30458A in the subject line on the first page of your response.

1. *By mail.* Submit your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

2. *In person or by courier.* Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA. The PIRIB is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

3. *Electronically.* You may submit your comments electronically by e-mail to: ''opp-docket@epa.gov,'' or you can submit a computer disk as described above. Do not submit any information electronically that you consider to be CBI. Avoid the use of special characters and any form of encryption. Electronic submissions will be accepted in Wordperfect 6.1/8.1 or ASCII file format. All comments in electronic form must be identified by docket control number OPP–30458A. Electronic comments may also be filed online at many Federal Depository Libraries.

D. How Should I Handle CBI that I Want to Submit to the Agency?

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person identified in the **FOR FURTHER INFORMATION CONTACT.**

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.

2. Describe any assumptions that you used.

3. Provide copies of any technical information and/or data you used that support your views.

4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.

5. Provide specific examples to illustrate your concerns.

6. Offer alternative ways to improve the registration activity.

7. Make sure to submit your comments by the deadline in this notice.

8. To ensure proper receipt by EPA, be sure to identify the docket control number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and**Federal Register** citation.

II. Did EPA Approve the Application?

A conditional registration may be granted under section 3(c)(7)(C) of FIFRA for a new active ingredient where

certain data are lacking, on condition that such data are received by the end of the conditional registration period and do not meet or exceed the risk criteria set forth in 40 CFR 154.7; that use of the pesticide during the conditional registration period will not cause unreasonable adverse effects; and that use of the pesticide is in the public interest. The Agency has considered the available data on the risks associated with the proposed use of prohexadione calcium, and information on social, economic, and environmental benefits to be derived from such use. Specifically, the Agency has considered the nature and its pattern of use, application methods and rates, and level and extent of potential exposure. Based on these reviews, the Agency was able to make basic health and safety determinations which show that use of prohexadione calcium during the period of conditional registration will not cause any unreasonable adverse effect on the environment, and that use of the pesticide is, in the public interest.

Consistent with section 3(c)(7)(C) of FIFRA, the Agency has determined that these conditional registrations are in the public interest. Use of the pesticides are of significance to the user community, and appropriate labeling, use directions, and other measures have been taken to ensure that use of the pesticides will not result in unreasonable adverse effects to man and the environment.

III. Approved Application

1. *Applications approved and published.* EPA published a notice in the **Federal Register** of August 6, 1998 (63 FR 42030) (FRL–6020–5), announcing that K-I Chemical U.S.A., Inc. 11 Martine Ave., 9th Floor, White Plains, NY 10606, had submitted applications to register the pesticide products Prohexadione Calcium Manufacturing Use Product (EPA File Symbol 63588–RN) and Baseline Plant Regulator (EPA File Symbol 63588–O) containing the active ingredient prohexadione calcium [cyclohexanecarboxylic acid 3,5-dioxo-4-(1-oxopropyl)-, ion (1-) calcium salt] at 91% and 75%, respectively.

2. *Applications approved but not published.* K-I Chemical U.S.A., Inc. submitted an application to EPA to register the pesticide product Apogee Plant Growth Regulator (EPA File Symbol 63588–RR) containing the same chemical at 27.5%. However, since the notice of receipt of the application to register the product as required by section 3(c)(4) of FIFRA, as amended, did not publish in the **Federal Register**, interested parties may submit comments on or before August 25, 2000 for this product only.

The applications were conditionally approved on April 26, 2000, for two end-use products and a technical listed below:

1. Prohexadione Calcium Manufacturing Use Product (EPA registration number 63588–10) for formulating use only.

2. Apogee Plant Growth Regulator (EPA registration number 63588–11) for reduction of vegetative growth on apples and pears.

3. Baseline Plant Regulator (EPA registration number 63588–9) for reduction of vegetative growth on peanuts.

List of Subjects

Environmental protection, Pesticides and pests.

Dated: July 10, 2000.

James Jones,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 00–18645 Filed 7–25–00; 8:45 am]

BILLING CODE 6560–50–F

FEDERAL MARITIME COMMISSION

Notice of Agreement(s) Filed

The Commission hereby gives notice of the filing of the following agreement(s) under the Shipping Act of 1984. Interested parties can review or obtain copies of agreements at the Washington, DC offices of the Commission, 800 North Capitol Street, N.W., Room 940. Interested parties may submit comments on an agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days of the date this notice appears in the **Federal Register**.

Agreement No.: 009548–054.

Title: United States Atlantic and Gulf Ports/Eastern Mediterranean and North African Freight Conference.

Parties: Farrell Lines, Inc., Waterman Steamship Corporation, Turkon Container Transport & Shipping Inc.

Synopsis: The proposed amendment deletes provisions which restrict the prerogative of a member, or a member's subsidiary, to set its own rates, preclude an agent from representing non-conference carriers operating in the Agreement trade, and restrict a member's ability to charter space aboard vessels it operates in the trade.

Agreement No.: 011284–036.

Title: Ocean Carrier Equipment Management Association.

Parties: A.P. Moller-Maersk Sealand, APL Co. PTE Ltd, Hapag-Lloyd Container Linie Gmbh, Mitsui O.S.K. Lines, Ltd., Nippon Yusen Kaisha, Orient Overseas Container Line (UK) Ltd, Orient Overseas Container line, Inc., P&O Nedlloyd B.V., P&O Nedlloyd Limited.

Synopsis: The modification makes clear that the parties to the agreement are not authorized to negotiate, agree upon, or jointly contract for rates or compensation paid to motor carriers or port truck drivers.

Agreement No.: 011346–010.

Title: Israel Trade Conference Agreement.

Parties: Farrell Lines, Inc., Zim Israel Navigation Co., Ltd.

Synopsis: The proposed amendment deletes provisions which restrict the prerogative of a member, or a member's subsidiary, to set its own rates and which preclude an agent from representing non-conference carriers operating in the Agreement trade.

Agreement No.: 011632–002.

Title: Turkey/United States Rate Agreement.

Parties: Farrell Lines, Inc., Turkon Container Transport & Shipping Inc.

Synopsis: The proposed amendment deletes a provision which requires a member to quote and collect payment for the carriage of freight strictly in accordance with Agreement tariffs and services contracts.

Agreement No.: 011657–004.

Title: Zim/Italia Space Charter Agreement.

Parties: Zim Israel Navigation Co., Ltd. Italia di Navigazione, S.p.A.

Synopsis: The parties are amending their agreement to reflect an increase in service frequency and to adjust space allocations.

Agreement No.: 011671–002.

Title: Italia/Contship Space Charter and Sailing Agreement.

Parties: Italia di Navigazione, S.p.A., Contship Containerlines Limited.

Synopsis: The parties are amending their agreement to increase the number of vessels that they will use under the agreement.

Agreement No.: 011717.

Title: Maersk Sealand/Cagema Space Charter Agreement.

Parties: Cagema Limited, A.P. Moller-Maersk Sealand.

Synopsis: The proposed agreement authorizes the parties to contribute one vessel each and to charter or exchange space on each other's vessel operating in the trade between ports in Florida and the Caribbean.

Dated: July 21, 2000.

By Order of the Federal Maritime Commission.

Bryant L. VanBrakle,

Secretary.

[FR Doc. 00–18933 Filed 7–25–00; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License; Applicant

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission an application for licenses as Non-Vessel Operating Common Carrier and Ocean Freight Forwarder—Ocean Transportation Intermediary pursuant to section 19 of the Shipping Act of 1984 as amended (46 U.S.C. app. 1718 and 46 CFR 515).

Persons knowing of any reason why the following applicants should not receive a license are requested to contact the Office of Transportation Intermediaries, Federal Maritime Commission, Washington, D.C. 20573.

Non-Vessel Operating Common Carrier Ocean Transportation Intermediary Applicants:

Combitrans Consolidators, Inc., 1900 North Loop West, Suite 290, Houston, TX 77018, Officer: Luis A. Acosta, Executive Director, (Qualifying Individual)

SCL (CHI) Inc. d/b/a Sunice Cargo Logistics, 818 Foster Avenue, Bensenville, IL 60106, Officer: Yuk Lin Cheng Wolfe, President, (Qualifying Individual)

Non-Vessel Operating Common Carrier and Ocean Freight Forwarder Transportation Intermediary Applicants:

Billings Freight Systems, Inc. d/b/a BFS Global, 1414 Blairs Bridge Road, Lithia Springs, GA 30057, Officers: Michael L. Smith, Vice President, (Qualifying Individual), Irvin W. Albert, Chairman

OCC Maritime, Inc., 7950 N.W. 77th Street, Suite 3A, Miami, FL 33166, Officers: Rosa Maria Ferradaz, President, (Qualifying Individual), Carlos Vidal, Secretary

Ocean Freight Forwarders—Ocean Transportation Intermediary Applicants:

FAB Logistics Incorporated, 437 Rozzi Place, Suite #108, South San Francisco, CA 94080, Officers: Thomas H. Moon, President, (Qualifying Individual), Mouhamet Dia, Vice President

Dated: July 21, 2000.

Bryant L. VanBrakle,

Secretary.

[FR Doc. 00–18932 Filed 7–25–00; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at www.ffiec.gov/nic/.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than August 21, 2000.

A. Federal Reserve Bank of Kansas City (D. Michael Manies, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198–0001:

1. Ardmore Merger Corporation, Ardmore, Oklahoma; to become a bank holding company by acquiring 100 percent of the voting shares of First National Corporation of Ardmore, Inc., Ardmore, Oklahoma, and thereby indirectly acquire First National Bank and Trust Company of Ardmore, Ardmore, Oklahoma.

B. Federal Reserve Bank of San Francisco (Maria Villanueva, Consumer Regulation Group) 101 Market Street, San Francisco, California 94105–1579:

1. North Valley Bancorp, Redding, California; to acquire 100 percent of the voting shares of Six Rivers National Bank, Eureka, California.

Board of Governors of the Federal Reserve System, July 21, 2000.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 00–18926 Filed 7–25–00; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies; Correction

This notice corrects a notice (FR Doc. 00–18323) published on pages 45081 and 45082 of the issue for Thursday, July 20, 2000.

Under the Federal Reserve Bank of New York heading, the entry for Caixa Geral De Depositos, S.A., Lisbon, Portugal, is revised to read as follows:

A. Federal Reserve Bank of New York (Betsy Buttrill White, Senior Vice President) 33 Liberty Street, New York, New York 10045–0001:

1. Caixa Geral De Depositos, S.A., Lisbon, Portugal; to retain approximately 8.8 percent of the outstanding voting shares of Banco Commercial Portugues, S.A., Oporto, Portugal and thereby indirectly acquire shares of BPABank, National Association, Newark, New Jersey.

Under the Federal Reserve Bank of San Francisco heading, the entry for Wells Fargo & Company, San Francisco, California, is revised to read as follows:

B. Federal Reserve Bank of San Francisco (Maria Villanueva, Consumer Regulation Group) 101 Market Street, San Francisco, California 94105–1579:

1. Wells Fargo & Company, San Francisco, California; to acquire 100 percent of the voting shares of First Security Corporation, Salt Lake City, Utah, and thereby indirectly acquire voting shares of First Security Bank, N.A., Ogden, Utah; First Security Bank of New Mexico, N.A, Albuquerque, New Mexico; First Security Bank of Nevada, Las Vegas, Nevada; and First Security Bank of California, N.A., West Covina, California.

In connection with this application, Wells Fargo proposes to acquire the nonbanking subsidiaries of First Security Corporation, including First Security Mortgage Company, Salt Lake City, Utah, and thereby engage in lending activities pursuant to § 225.28(b)(1) of Regulation Y; First Security Leasing Company and Bankers

Equipment Alliance, Inc., both of Salt Lake City, Utah, and thereby engage in leasing activities pursuant to § 225.28(b)(3) of Regulation Y; First Security Investment Services, Inc., and First Security Investment Management Inc., both of Salt Lake City, Utah, and thereby engage in investment and financial advisory activities pursuant to § 225.28(b)(6) of Regulation Y; First Security Specialized Services, Inc., Salt Lake City, Utah, and thereby engage in providing financial advisory and management consulting services pursuant to §§ 225.28(b)(6) and (9) of Regulation Y; First Security Life Insurance Company of Arizona, Phoenix, Arizona, and thereby engage in reinsuring credit-related insurance pursuant to § 225.28(b)(11)(i) of Regulation Y; and First Security Processing Services, Inc., Salt Lake City, Utah, and thereby engage in providing bankcard and ATM transaction services for other financial institutions pursuant to § 225.28(b)(14) of Regulation Y.

Comments on both these applications must be received by August 14, 2000.

Board of Governors of the Federal Reserve System, July 21, 2000.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 00–18927 Filed 7–25–00; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Notice of Proposals To Engage in Permissible Nonbanking Activities or to Acquire Companies That Are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y, (12 CFR Part 225) to engage *de novo,* or to acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act. Additional information on all bank holding companies may be obtained from the National Information Center website at www.ffiec.gov/nic/.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than August 10, 2000.

A. Federal Reserve Bank of New York (Betsy Buttrill White, Senior Vice President) 33 Liberty Street, New York, New York 10045–0001:

1. Westdeutsche Landesbank Girozentrale, Dusseldorf, Germany; and WestLB Asset Management (USA) LLC, Chicago, Illinois, to acquire Phillips Capital Management LLC, Chicago, Illinois, and thereby engage in investment advisory activities, pursuant to § 225.28(b)(6) of Regulation Y.

Board of Governors of the Federal Reserve System, July 21, 2000.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 00–18928 Filed 7–25–00; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 00N–1395]

Agency Information Collection Activities; Proposed Collection; Comment Request; Medicated Feed Mill License

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act of 1995 (the PRA), Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension for an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on the collection of information for medicated feed mill licensing requirements.

DATES: Submit written comments on the collection of information by September 25, 2000.

ADDRESSES: Submit written comments on the collection of information to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. All comments should be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Denver Presley, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1472.

SUPPLEMENTARY INFORMATION: Under the PRA, 44 U.S.C. 3501–3520, Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Medicated Feed Mill License 21 CFR Part 515—(OMB Control Number 0910–0337)—Extension

In the **Federal Register** of November 19, 1999 (64 FR 63195), FDA published a final rule implementing the feed mill licensing provisions of the Animal Drug Availability Act of 1966 (Public Law 104–250). The rule added part 515 (21 CFR part 515) to provide the requirements for medicated feed mill licensing.

The rule set forth the information to be included in a medicated feed mill license application and subsequent supplemental applications. Also, it set forth criteria for the approval and nonapproval of a medicated feed mill license application and the criteria for the revocation and/or suspension of a license. More specifically, § 515.10(b) specifies requirements for submitting a completed medicated feed mill license application, using Form FDA 3448. Section 515.11(b) specifies requirements for supplemental medicated feed applications for a change in ownership and/or change in mailing address for the facility cite, using Form FDA 3448. Section 515.23 sets forth written requirements for voluntary revocation of a medicated feed mill license by a sponsor on the grounds that the facility no longer manufacture any animal feed. Section 515.30(c) details requirements for filing a request for a hearing by a sponsor to give reasons why a medicated feed mill license application should not be refused or revoked and § 510.305(b) (21 CFR 510.305(b)) requires maintenance of approved labeling for each Type B and/or Type C feed being manufactured on the premises of the manufacturing establishment or the facility where the feed labels are generated.

Respondents to this collection of information are individuals or firms that manufacture medicated animal feed.

FDA estimates the burden of this collection of information as follows:

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN [1]

21 CFR Section	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
515.10(b)	100	1	100	0.25	25
515.11(b)	25	1	25	0.25	6.25
515.23	50	1	50	0.25	12.25
515.30(c)	0.15	1	0.15	24	3.6
Total					47.10

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

TABLE 2.—ESTIMATED ANNUAL RECORDKEEPING BURDEN [1]

21 CFR Section	No. of Recordkeepers	Annual Frequency per Recordkeeping	Total Annual Records	Hours per Recordkeeper	Total Hours
510.305(b)	100	1	100	.25	25

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

The estimate for the number of respondents is derived from agency data, i.e. the number of medicated feed manufacturers entering the market each year, change in ownership or address, requests for voluntary revocation of a medicated feed mill license, revocation and/or suspension of a license. The estimate of the time required for the reporting and recordkeeping requirements is based on the agency communication with industry.

Dated: July 21, 2000.

William K. Hubbard,

Senior Associate Commissioner for Policy, Planning, and Legislation.

[FR Doc. 00–18943 Filed 7–25–00; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 96N–0393]

Agency Information Collection Activities; Proposed Collection; Comment Request; MedWatch: FDA's Medical Product Reporting Program

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act of 1995 (the PRA), Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on the ''MedWatch: The FDA Medical Products Reporting Program'' forms (Form FDA 3500 (voluntary version) and Form FDA 3500A (mandatory version). These forms will be used to report to the agency about adverse events and product problems that occur with FDA-regulated products.

DATES: Submit written comments on the collection of information by September 25, 2000.

ADDRESSES: Submit written requests for single copies of the revised MedWatch reporting forms, Form FDA 3500 (voluntary) and Form FDA 3500A (mandatory), to: MedWatch: The FDA Medical Products Reporting Program (HF–2), Food and Drug Administration, 5600 Fishers Lane, rm. 17–65, Rockville, MD 20857, 301–827–7240. Send one self-addressed adhesive label to assist that office in processing your request. Copies of the forms may also be obtained via the Internet at http://www.fda.gov/medwatch under ''How to Report.''

Submit written comments on the MedWatch reporting forms, Form FDA 3500 (voluntary) and Form FDA 3500A (mandatory), to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. All comments should be identified with the docket number found in brackets in the heading of this document. Copies of

the MedWatch reporting forms, Form FDA 3500 (voluntary) and Form FDA 3500A (mandatory) are available for public examination via the Internet at http://www.fda.gov/ohrms/dockets/dockets/dockets.htm or in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Mark L. Pincus, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1471.

SUPPLEMENTARY INFORMATION:

I. Background

Under the PRA (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

MedWatch: The FDA Medical Products Reporting Program (Forms FDA 3500 and FDA 3500A) (OMB Control Number 0910–0291)—Extension

Under sections 505, 512, 513, 515, and 903 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 355, 360b, 360c, 360e, and 393); and section 351 of the Public Health Service Act (42 U.S.C. 262), FDA has the responsibility to ensure the safety and effectiveness of drugs, biologics, and devices. Under section 502(a) of the act (21 U.S.C. 352(a)), a drug or device is misbranded if its labeling is false or misleading. Under section 502(f)(1) of the act, it is misbranded if it fails to bear adequate warnings, and under section 502(j), it is misbranded if it is dangerous to health when used as directed in its labeling.

Under section 4 of the Dietary Supplement Health and Education Act of 1994 (the DSHEA) (21 U.S.C. 301), section 402 (21 U.S.C. 342) is amended so that FDA must bear the burden of proof to show a dietary supplement is unsafe.

To carry out its responsibilities, the agency needs to be informed whenever an adverse event or product problem occurs. Only if FDA is provided with such information, will the agency be able to evaluate the risk, if any, associated with the product, and take whatever action is necessary to reduce or eliminate the public's exposure to the risk through regulatory action ranging from labeling changes to the rare product withdrawal. To ensure the marketing of safe and effective products, certain adverse events must be reported. Requirements regarding mandatory reporting of adverse events or product problems have been codified in parts 310, 314, 600, and 803 (21 CFR parts 310, 314, 600, and 803), specifically §§ 310.305, 314.80, 314.98, 600.80, 803.30, 803.50, 803.53, and 803.56.

To implement these provisions for reporting of adverse events and product problems with all medications, devices, and biologics, as well as any other products that are regulated by FDA, two very similar forms are used. Form FDA 3500 is used for voluntary (i.e., not mandated by law or regulation) reporting of adverse events and product problems by health professionals and the public. Form FDA 3500A is used for mandatory reporting (i.e., required by law or regulation).

Respondents to this collection of information are health professionals, hospitals and other user-facilities (e.g., nursing homes, etc.), consumers, manufacturers of biologics, drugs and medical devices, distributors, and importers.

II. Use of the Voluntary Version (Form FDA 3500)

Individual health professionals are not required by law or regulation to submit adverse event or product problem reports to the agency or the manufacturer. There is one exception. The National Childhood Vaccine Injury Act of 1986 mandates that certain adverse reactions following immunization be reported by physicians to the joint FDA/Centers for Disease Control and Prevention Vaccine Adverse Event Reporting System.

Hospitals are not required by Federal law or regulation to submit adverse event reports on medications. However, hospitals and other medical facilities are required by Federal law to report medical device-related deaths and serious injuries.

Manufacturers of dietary supplements do not have to prove safety or efficacy of their products prior to marketing, nor do they have mandatory requirements for reporting adverse reactions to FDA. However, the DSHEA puts the onus on FDA to prove that a particular product is unsafe. Consequently, the agency is totally dependent on voluntary reporting by health professionals and consumers about problems with the use of dietary supplements.

The voluntary version of the form is used to submit all adverse event and product problem reports not mandated by Federal law or regulation.

III. Use of the Mandatory version (Form FDA 3500A)

A. Drug and Biologic Products

In sections 505(j) and 704 of the act (21 U.S.C. 374), Congress has required that important safety information relating to all human prescription drug products be made available to FDA so that it can take appropriate action to protect the public health when necessary. Section 702 of the act (21 U.S.C. 372) authorizes investigational powers to FDA for enforcement of the act. These statutory requirements regarding mandatory reporting have been codified by FDA under parts 310 and 314 (drugs) and 600 (biologics). Parts 310, 314, and 600 mandate the use of the Form FDA 3500A for reporting to FDA on adverse events that occur with drug and biologics.

B. Medical Device Products

Section 519 of the act (21 U.S.C. 360i) requires manufacturers, importers, or distributors of devices intended for human use to establish and maintain records, make reports, and provide information as the Secretary of Health and Human Services may by regulation reasonably require to ensure that such devices are not adulterated or misbranded and to otherwise ensure its safety and effectiveness. Furthermore, the Safe Medical Device Act of 1990, signed into law on November 28, 1990, amends section 519 of the act. The

amendment requires that user facilities such as hospitals, nursing homes, ambulatory surgical facilities, and outpatient treatment facilities report deaths related to medical devices to FDA and to the manufacturer, if known. Serious illnesses and injuries are to be reported to the manufacturer or to FDA if the manufacturer is not known. These statutory requirements regarding mandatory reporting have been codified by FDA under part 803. Part 803 mandates the use of Form FDA 3500A for reporting to FDA on medical devices.

C. Other Products Used in Medical Therapy

There are no mandatory requirements for the reporting of adverse events or product problems with products such as dietary supplements. However, the DSHEA puts the onus on FDA to prove that a particular product is unsafe. Consequently, the agency is dependent totally on voluntary reporting by health professionals and consumers about problems with the use of dietary supplements. (Note: Most pharmaceutical manufacturers already use a one-page modified version of the Form FDA 3500A where section G from the back of the form is substituted for section D on the front of the form.)

D. Medical Device Baseline Information

The Medical Device Reporting—Baseline form (Form FDA 3417) relates specifically to the individual device and must be submitted with the first adverse event on that device reported via Form FDA 3500A. The information collected includes the basis for marketing (510(k), PMA, etc.), product code for the device, common name, location where manufactured, and other identifying information. The Health Industry Manufacturers Association (HIMA) first commented in 1992 on the redundancy of information required for the Baseline form stating that the information is also collected by the agency through the device listing process (Form FDA 2892) and through Form FDA 3500A. In 1998, HIMA commented again and, at the request of OMB, FDA explored revising Form FDA 3500A to include the information required by the Baseline form that is not collected through the listing process.

In discussions with OMB it was decided that FDA would not attempt to revise Form FDA 3500A at this time, but would proceed with collecting the information required by the Baseline form as a separate part of the device listing process especially because some of the information required by the current Baseline form will be collected in that listing as a change in the listing regulations. Because the collection of registration and listing information will be through electronic means, the agency envisions a menu option on the Internet site to facilitate the collection of Baseline information.

FDA will be holding stakeholder meetings to discuss the new device registration and listing system and will discuss using the new device registration and listing system electronic process as the vehicle for the Baseline information collection at those meetings.

FDA estimates the burden of this collection of information as follows:

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN

FDA Center(s) [1] (21 CFR Section)	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
CBER/CDER					
Form 3500 [2]	16,198	1	16,198	0.5	8,099
Form 3500A [3] (310.305, 314.80, 314.98, and 600.80)	600	455.2	273,109	1.0	273,109
CDRH					
Form 3500 [2]	2,650	1	2,650	0.5	1,325
Form 3500A [3] (part 803)	2,046	24	49,305	1.0	49,305
CFSAN					
Form 3500 [2]	550	1	550	0.5	275
Form 3500A [3] (No mandatory requirements)	0	0	0	1.0	0
Total Hours					332,113
Form 3500 [2]					9,699
Form 3500A [3]					332,414

[1] CBER (Center for Biologics Evaluation and Research), CDER (Center for Drug Evaluation and Research), CDRH (Center for Devices and Radiological Health), CFSAN (Center for Food Safety and Applied Nutrition).
[2] FDA Form 3500 is for voluntary reporting,
[3] FDA Form 3500A is for mandatory reporting.
Note.—The figures shown in table 1 of this document are based on actual calendar year 1999 reports and respondents for each Center and type of report.

As more medical products are approved by FDA and marketed, and as knowledge increases regarding the importance of notifying FDA when adverse events and product problems are observed, it is expected that more reports will be submitted.

Dated: July 21, 2000.

William K. Hubbard,

Senior Associate Commissioner for Policy, Planning, and Legislation.

[FR Doc. 00–18944 Filed 7–25–00; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 00N–1373]

Agency Information Collection Activities; Proposed Collection; Comment Request; Reporting and Recordkeeping Requirements for Mammography Facilities; Correction

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting a notice that appeared in the **Federal Register** of July 17, 2000 (65 FR 44061). The document announced an opportunity for public comment on information collection requirements for mammography facilities, standards, and lay summaries for patients. The document was published with an inadvertent error. This document corrects that error.

DATES: July 26, 2000.

FOR FURTHER INFORMATION CONTACT: Mark Pincus, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1471.

SUPPLEMENTARY INFORMATION: In FR Doc. 00–17944 appearing on page 44061 in the **Federal Register** of July 17, 2000, the following correction is made:

On page 44061, in the first column, under the **ADDRESSES** caption, after the second sentence, ''Persons with access to the Internet may submit electronic comments on the collection of information at http://www.accessdata.fda.gov/scripts/oc/dockets/comments/commentdocket.cfm.'' is added.

Dated: July 21, 2000.

William K. Hubbard,

Senior Associate Commissioner for Policy, Planning, and Legislation.

[FR Doc. 00–18942 Filed 7–25–00; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 00N–0930]

Request for Nominations for Working Groups Under the Nonclinical Studies Subcommittee of the Advisory Committee for Pharmaceutical Science

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is requesting nominations for qualified persons to serve on two fact-finding working groups being formed to support the Nonclinical Studies Subcommittee of the Advisory Committee for Pharmaceutical Science. The working groups will identify and report on scientific issues that may benefit from focused nonclinical research and collaboration.

FDA has a special interest in ensuring that women, minority groups, and individuals with disabilities are adequately represented on advisory committees, and therefore, encourages nominations of qualified candidates from these groups. Final selections from among qualified candidates for each working group will be based on the expertise demonstrated for the specific focus areas and previous experience working in these areas.

DATES: All nominations should be received by September 29, 2000.

ADDRESSES: Please submit nominations to Docket No. 00N–0930, Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: David C. Morley, Center for Drug Evaluation and Research (HFD–358), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–5684, FAX 301–594–2503, e-mail: MORLEYD@CDER.FDA.GOV.

SUPPLEMENTARY INFORMATION: FDA is requesting nominations for qualified persons to serve on two fact-finding working groups being formed to support the Nonclinical Studies Subcommittee of the Advisory Committee for Pharmaceutical Science. The working groups will identify and report on scientific issues that may benefit from focused nonclinical research and collaboration.

FDA is forming the following two working groups:

- A multidisciplinary working group to identify promising areas of nonclinical scientific research to develop biomarkers and/or other evolving molecular technologies to identify or predict drug-induced cardiac tissue injury, and
- A multidisciplinary working group to identify promising areas of nonclinical scientific research to develop biomarkers and/or other evolving molecular technologies to identify or predict drug-induced vasculitis.

Criteria

Persons nominated for the working groups shall have exceptional accomplishments and expertise in the scientific fields appropriate to the working group. In particular, expertise in genomic and proteomic technologies is desired.

Nomination Procedures

Any interested person or organization may nominate one or more qualified persons for one or more of the working groups. Self-nominations are also accepted. Nominations should include appropriate biographical material, a brief (one-half page maximum) endorsement, a list of scientific publications relevant to the working group, and a statement that the nominee is aware of the nomination and is willing to serve on the working group if selected.

This notice is issued under the Federal Advisory Committee Act (5 U.S.C. app. 2) and 21 CFR part 14, relating to advisory committees.

Dated: July 18, 2000.

Linda A. Suydam,

Senior Associate Commissioner.

[FR Doc. 00–18829 Filed 7–25–00; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 00D–1384]

Medical Devices; Draft Guidance for Surveillance and Detention Without Physical Examination of Surgeons' and/or Patient Examination Gloves; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a draft guidance entitled ''Guidance for Surveillance and Detention Without Physical Examination of Surgeons' and/or Patient Examination Gloves.'' Many foreign manufacturers and shippers of surgeons' and/or patient examination gloves have consistently failed to provide surgeons' and/or patient examination gloves of adequate quality for distribution in the United States, which presents a potential serious hazard to health for users and patients. The draft guidance is intended to help industry understand our policy to monitor continuously recidivist firms under our import program. This policy is neither final nor is it in effect at this time.

DATES: Submit written comments concerning this draft guidance by October 24, 2000.

ADDRESSES: Submit written requests for single copies on a 3.5″ diskette of the draft guidance entitled ''Draft Guidance for Surveillance and Detention Without Physical Examination of Surgeons' and/or Patient Examination Gloves'' to the Division of Small Manufacturers Assistance (HFZ–220), Center for Devices and Radiological Health, Food and Drug Administration, 1350 Piccard Dr., Rockville, MD 20850. Send one self-addressed adhesive label to assist that office in processing your request, or fax your request to 301–443–8818. See the **SUPPLEMENTARY INFORMATION** section for information on electronic access to the guidance.

Submit written comments concerning this guidance to the Dockets Management Branch, (HFA–305), Food

and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Comments should be identified with the docket number found in the brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Rebecca K. Keenan, Center for Devices and Radiological Health (HFZ–333), Food and Drug Administration, 2094 Gaither Rd., Rockville, MD 20850, 301–594–4618.

SUPPLEMENTARY INFORMATION:

I. Background

This draft guidance is intended to provide guidance to FDA staff and industry about a recidivist policy for firms that repeatedly attempt to import surgeons' and patient exam gloves that violate quality requirements. FDA's experience with sampling, examination, and testing of surgeons' and/or patient examination gloves raises concerns about the barrier properties of some gloves exported to the United States. Our analyses of surgeons' and patient examination gloves exported to the United States show a significant variation in the quality of the gloves exported by various manufacturers/shippers. We repeatedly place the same manufacturers/shippers on import detention due to leaks and defects in their gloves. These firms then need to provide us with private laboratory analyses for a number of shipments in order to demonstrate that the quality of the gloves and the firm's manufacturing operations comply with FDA standards. Once the firms provide such evidence, we remove them from import alert. However, many of these same manufacturers/shippers have repeated violative analyses and return to import alert status. This cyclical problem of violations requires continuous auditing and monitoring of recidivist firms to prevent the entry of defective gloves into the United States.

In an attempt to ensure that surgeons' and/or patient examination gloves exported to the United States are in compliance with FDA's standards, we revised Import Alert #80–04, ''Surveillance and Detention Without Physical Examination of Surgeons' and/or Patient Examination Gloves,'' referred to as the ''recidivist policy.'' This initiative was a joint effort between the agency's Center for Devices and Radiological Health's Office of Compliance, ORA's Division of Import Operations and Policy, and the Office of Chief Counsel.

The recidivist policy defines three increasingly stringent compliance levels for firms who have shipped violative surgeons' and patient examination gloves to the United States. Levels 1 and 2 allow voluntary compliance opportunities, while Level 3 provides a mechanism to issue a warning letter for apparent violations of the Federal Food, Drug, and Cosmetic Act, including noncompliance with the quality systems regulation for good manufacturing practices. A finding of Level 3 noncompliance will automatically place any future shipments of surgeons' or patient examination gloves from the manufacturer/shipper on detention, without the need for FDA to perform an actual inspection at the manufacturer, due to the continued failure of the surgeons' and/or patient examination gloves to pass minimum FDA standards upon import.

The agency has adopted good guidance practices (GGP's), which set forth the agency's policies and procedures for the development, issuance, and use of guidance documents (62 FR 8961, February 27, 1997). This guidance document is issued as a draft Level 1 guidance consistent with GGP's. This guidance document represents the agency's current thinking on the surveillance and detention without physical examination of surgeons' and/or patient examination gloves. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the applicable statute, regulations, or both.

II. Electronic Access

In order to receive the draft guidance on ''Guidance for Surveillance and Detention Without Physical Examination of Surgeons' and/or Patient Examination Gloves'' via your fax machine, call the CDRH Facts-On-Demand (FOD) system at 800–899–0381 or 301–827–0111 from a touch-tone telephone. At the first voice prompt press 1 to access DSMA Facts, at second voice prompt press 2, and then enter the document number 1141 followed by the pound sign (#). Then follow the remaining voice prompts to complete your request.

Persons interested in obtaining a copy of the guidance may also do so using the Internet. CDRH maintains an entry on the Internet for easy access to information including text, graphics, and files that may be downloaded to a personal computer with access to the Internet. Updated on a regular basis, the CDRH home page includes various Level 1 guidance documents for comment, device safety alerts, **Federal Register** reprints, information on premarket submissions (including lists of approved applications and manufacturers' addresses), small manufacturers' assistance, information on video conferencing and electronic submissions, mammography matters, and other device-oriented information. The CDRH home page may be accessed at http://www.fda.gov/cdrh. ''Guidance for Surveillance and Detention Without Physical Examination of Surgeons' and/or Patient Examination Gloves'' will be available at http://www.fda.gov/cdrh/oc/glove1.pdf.

III. Comments

Interested persons may submit to the Dockets Management Branch (address above) written comments regarding this draft guidance by October 24, 2000. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. The draft guidance document and received comments are available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: July 12, 2000.

Linda S. Kahan,

Deputy Director for Regulations Policy, Center for Devices and Radiological Health.

[FR Doc. 00–18830 Filed 7–25–00; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[Document Identifier: HCFA–437, 437A, 437B]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Health Care Financing Administration, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to

be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: Extension of a currently approved collection; *Title of Information Collection:* Psychiatric Unit Criteria Worksheet, Rehabilitation Unit Criteria Worksheet, and Rehabilitation Hospital Criteria Worksheet, and Supporting Regulations at 42 CFR 412.20–412.32; *Form No.:* HCFA–437, 437A, and 437B (OMB# 0938–0358); *Use:* The rehabilitation hospital/unit and psychiatric unit criteria worksheets are necessary to verify and reverify that these facilities/units comply and remain in compliance with the exclusion criteria for the Medicare prospective payment system; *Frequency:* Annually; *Affected Public:* Business or other-for-profit, Not-for-profit institutions, State, local, or tribal government.; *Number of Respondents:* 2,580; *Total Annual Responses:* 2,580; *Total Annual Hours:* 645.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access HCFA's Web Site address at http://www.hcfa.gov/regs/prdact95.htm, or E-mail your request, including your address, phone number, OMB number, and HCFA document identifier, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 60 days of this notice directly to the HCFA Paperwork Clearance Officer designated at the following address: HCFA, Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards, Attention: Julie Brown, Room N2–14–26, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Dated: July 11, 2000.

John P. Burke III,

Reports Clearance Officer, Security and Standards Group, Division of HCFA Enterprise Standards.

[FR Doc. 00–18835 Filed 7–25–00; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources And Services Administration

Agency Information Collection Activities: Proposed Collection: Comment Request

In compliance with the requirement for opportunity for public comment on proposed data collection projects (section 3506(c)(2)(A) of Title 44, United States Code, as amended by the Paperwork Reduction Act of 1995, Public Law 104–13), the Health Resources and Services Administration (HRSA) publishes periodic summaries of proposed projects being developed for submission to OMB under the Paperwork Reduction Act of 1995. To request more information on the proposed project or to obtain a copy of the data collection plans and draft instruments, call the HRSA Reports Clearance Officer on (301) 443–1129.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Proposed Project: The National Health Service Corps (NHSC) Scholarship Program In-School Worksheets (New)

The National Health Service Corps (NHSC) Scholarship Program was established to help alleviate the geographical and specialty maldistribution of physicians and other health practitioners in the United States. Under this program, health professional students are offered scholarships in return for services in a federally-designated Health Professional Shortage Area (HPSA). If awarded an NHSC Scholarship, the Program will require the schools and the awardees to review and complete relative data collection worksheets for each year that the student is NHSC Scholar.

The Data Sheet Form requests that the NHSC Scholar review the form for accuracy of pertinent information such as, social security number, contact information, current curriculum, and date of graduation information. If the scholar finds the printed information to be accurate, they must sign the form and return it to the NHSC Scholarship Program in the envelope provided. If the NHSC Scholar finds the information inaccurate in regards to their name or contact information, they are to make the necessary changes directly on the form. If the inaccurate information pertains to their curriculum or date of graduation, the scholar will make changes directly on the form and include written notification from their school.

The Verification Sheet Form is sent to the school along with a list of the NHSC scholars who are enrolled at their school for the current academic year. The schools are asked to verify and/or correct the enrollment status of each of the scholars on the list. Once the verification is complete the school must sign and date the form and return it to the NHSC Scholarship Program in the envelope provided.

The Contact Sheet Form is sent to the schools and it requests the contact information of pertinent school officials. This information is used by the NHSC Scholarship Program for future contacts with the schools.

The estimated burden is as follows:

Form name	Number of respondents	Responses per respondent	Hours per response (min)	Total burden hours
Data Sheet	800	1	10	137
Verification Sheet	800	1	10	137
Contact Sheet	800	1	10	137
Total	800	.....	.....	411

Send comments to Susan G. Queen, Ph.D., HRSA Reports Clearance Officer, Room 14–33, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857. Written comments should be received within 60 days of this notice.

Dated: July 19, 2000.

Jane Harrison,

Director, Division of Policy Review and Coordination.

[FR Doc. 00–18832 Filed 7–25–00; 8:45 am]

BILLING CODE 4160–15–U

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Statement of Organization, Functions, and Delegations of Authority

This notice amends Part R of the Statement of Organization, Functions and Delegations of Authority of the Department of Health and Human Services (DHHS), Health Resources and Services Administration (60) FR 56605 as amended November 6, 1995, as last amended at 65 FR 38565–68 dated June 21,2000).

This notice reflects the organizational and functional changes in the Bureau of Health Professions (RP). Make the following changes:

1. Delete the opening functional statement for the Bureau of Health Professions in its entirety and replace with the following:

Bureau of Health Professions (RP)

Provides national leadership in coordinating, evaluating, and supporting the development and utilization of the Nation's health personnel. Specifically: (1) Assess the Nation's health personnel supply and requirements and forecasts supply and requirements for future time periods under a variety of health resources utilization assumptions; (2) collects and analyzes data and disseminates information on the characteristics and capacities of the Nation's health personnel production systems; (3) proposes new or modifications of existing Departmental legislation, policies, and programs related to health personnel development and utilization; (4) develops, tests and demonstrates new and improved approaches to the development and utilization of health personnel within various patterns of health care delivery and financing systems; (5) provides financial support to institutions and individuals for health professions education programs; (6) administers Federal programs for targeted health personnel development and utilization; (7) provides leadership for promoting equity and diversity in access to health services and health careers for under-represented minority groups; (8) provides technical assistance, consultation, and special financial assistance to national, State, and local agencies, organizations, and institutions for the development, production, utilization, and evaluation of health personnel; (9) provides linkage between Bureau headquarters and HRSA Field Office activities related to health professions education and utilization by providing training, technical assistance, and consultation to Field Office staff; (10) coordinates with the programs of other agencies within the Department, and in other Federal Departments and agencies concerned with health personnel development and health care services; (11) provides liaison and coordinates with non-Federal organizations and agencies concerned with health personnel development and utilization; (12) in coordination with the Office of the Administrator, Health Resources and Services Administration, serves as a focus for technical assistance activities in the international aspects of health personnel development, including the conduct of special international projects relevant to domestic health personnel problems; (13) administers the National Vaccine Injury Compensation Program; (14) administers the National Practitioner Data Bank Program; (15) administers the Healthcare Integrity and Protection Data Bank Program; (16) administers the Ricky Ray Hemophilia Relief Fund Program; and (17) administers the Children's Hospitals Graduate Medical Education (CHGME) Payment Program.

2. Delete the opening functional statement for the Office of Program Support in its entirety and replace with the following:

Office of Program Support (RP1)

Plans, directs, coordinates and evaluates Bureau-wide administrative management activities, including grants management and financial management activities. Maintains close liaison with officials of the Bureau, Agency, the Office of the Assistant Secretary for Health, and the Office of the Secretary on management and support activities. Specifically: (1) Serves as the Bureau Director's principal source for management and administrative advice and assistance; (2) provides advice, guidance, and coordinates personnel activities for the Bureau with the Division of Personnel, HRSA: (3) directs and coordinates the allocation of personnel resources; (4) provides organization and management analysis, develops policies and procedures for internal operation, and interprets and implements the Bureau's management policies, procedures and systems; (5) develops and coordinates program and administrative delegations of authority activities; (6) responsible for planning and directing Bureau financial management activities, including budget formulation, presentation, and execution functions; (7) conducts all business management aspects of the review, negotiation, award and administration of Bureau grants management activities; (8) provides Bureau-wide support services such as supply management, equipment utilization, printing, property management, space management, records management and management reports; (9) serves as the Bureau's focal point for correspondence control; (10) manages the Bureau's performance management systems; (11) coordinates and provides guidance on the Freedom of Information Act and Privacy Act activities; (12) coordinates the development of the Bureau's annual procurement plans and schedule for Bureau grants, contracts, and cooperative agreements; and (13) develops general guidance and criteria related to the Bureau's grant programs.

3. Establish the Office of Extramural Program Review.

Office of Extramural Program Review (RPG)

(1) Serves as the Bureau's focal point for the administration and management of the grants and cooperative agreement review process, and its peer review functions; (2) develops, implements and maintains policies and procedures necessary to carry out primary functions in keeping with all Agency (3) maintains close liaison between Divisions/Offices to obtain information regarding potential peer reviewer panelists; (4) provide technical assistance to Peer Reviewers ensuring that reviewers are aware of and comply with the appropriate administrative policies and regulations, *e.g.,* conflict of interest, confidentiality, and Privacy Act; (5) provide technical advice and guidance to the Director regarding the Bureau's peer review processes; (6) coordinate and assure the development of program policies and rules relating to the Bureau's extramural activities; (7) administer the Bureau's peer review function under the Federal Advisory Committee Act; and provide Divisions with final disposition, *e.g.,* approval/disapproval for all applications peer reviewed.

Delegations of Authority

All delegations and redelegations of authority which were in effect immediately prior to the effective date hereof have been continued in effect in them or their successors pending further redelegation.

This reorganization is effective upon date of signature.

Dated: July 18, 2000.

Claude Earl Fox,

Administrator.

[FR Doc. 00–18831 Filed 7–25–00; 8:45 am]

BILLING CODE 4160–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Agency Information Collection Activities: Submission for OMB Review; Comment Request

Periodically, the Substance Abuse and Mental Health Services Administration (SAMHSA) will publish a list of information collection requests under OMB review, in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these documents, call the SAMHSA Reports Clearance Officer on (301) 443–7978.

2001 National Household Survey on Drug Abuse—(0930–0110, Revision)—SAMHSA's National Household Survey on Drug Abuse (NHSDA) is a survey of the civilian, noninstitutionalized population of the United States 12 years of age and older. The data are used to determine the prevalence of use of tobacco products, alcohol, illicit substances, and illicit use of prescription drugs. The results are used by SAMHSA, the Office of National Drug Control Policy, Federal government agencies, and other organizations and researchers to establish policy, direct program activities, and better allocate resources.

For the 2001 NHSDA, additional questions in the following substantive areas are planned: serious mental illness for adults; one question regarding state Children's Health Insurance Program (CHIP) coverage for respondents (12 to 19 years old); revised questions on tobacco dependence; questions on marketplace issues and knowledge of state laws regarding marijuana use; questions on smoking ''bidis'' (flavored cigarettes); and two questions that use the ''item count'' methodology to estimate use of specific hard-core drugs. The remaining modular components of the NHSDA questionnaire will remain essentially unchanged except for minor modifications to wording and selective elimination of sufficient questions to allow for the additional burden of the questions listed above.

As in 1999 and 2000, the sample size of the survey for 2001 will be sufficient to permit prevalence estimates for each of the fifty states and the District of Columbia. The total annual burden estimate is 88,563 hours as shown below:

	No. of respondents	Responses/respondent	Average burden/response (hrs.)	Total burden hours
Household Screener	210,000	1	0.083	17,430
NHSDA Interview	70,000	1	1.000	70,000
Screening Verification	6,405	1	0.067	429
Interview Verification	10,500	1	0.067	704
Total	.....	.....	.....	88,563

Written comments and recommendations concerning the proposed information collection should be sent within 30 days of this notice to: SAMHSA Desk Officer, Human Resources and Housing Branch, Office of Management and Budget, New Executive Office Building, Room 10235, Washington, D.C. 20503.

Dated: July 19, 2000.

Richard Kopanda,

Executive Officer, SAMHSA.

[FR Doc. 00–18857 Filed 7–25–00; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AK–962–1410–00–P]

Notice for Publication, AA–8096–03; Alaska Native Claims Selection

In accordance with Departmental regulations 43 CFR 2650.7(d), notice is hereby given that decisions to issue conveyance (DIC) to Chugach Alaska Corporation, notices of which were published in the **Federal Register** on May 4, 1999, and June 24, 1999, are modified to replace the easements to be reserved, and add a right-of-way interest in Federal Aid Secondary Route No. 851 (FAS 851) as to T. 8 S., R. 3 E., Copper River Meridian, Alaska.

A notice of the modified decision will be published once a week, for four (4) consecutive weeks, in the *Anchorage Daily News.* Copies of the modified decision may be obtained by contacting the Bureau of Land Management, Alaska State Office, 222 West Seventh Avenue, #13, Anchorage, Alaska 99513–7599. ((907) 271–5960).

Any party claiming a property interest which is adversely affected by the decision, shall have until August 25, 2000 to file an appeal on the issue in the modified DIC. However, parties receiving service by certified mail shall have 30 days from the date of receipt to file an appeal. Appeals must be filed in the Bureau of Land Management at the address identified above, where the requirements for filing an appeal may be obtained. Parties who do not file an appeal in accordance with the requirements in 43 CFR part 4, subpart E, shall be deemed to have waived their rights.

Except as modified, the decisions, notices of which were given May 4, 1999 and June 24, 1999, are final.

Jerri Sansone,

Land Law Examiner, Branch of 962 Adjudication.

[FR Doc. 00–18859 Filed 7–25–00; 8:45 am]

BILLING CODE 4310–$$–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AK–962–1410–HY–P; AA–6687–A;]

Alaska Native Claims Selection

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance under the provisions of Sec. 14(a) of the Alaska Native Claims

Settlement Act of December 18, 1971, 1613(a), will be issued to Old Harbor Native Corporation for the village of Old Harbor. The lands involved are in the vicinity of Old Harbor, Alaska.

Seward Meridian, Alaska, U.S. Survey No. 10920, Alaska

Containing 119.99 acres as shown on the plat of survey officially filed on November 25, 1992.

T. 33. S., R. 23 W.,
Sec. 5, lot 2;
Sec. 6, lot 2;
Sec. 8, lot 2;
Sec. 9, lots 1 and 2;
Sec. 10, lot 1.

Containing 1,305.04 acres as shown on the plat of survey officially filed on April 16, 1999.

T. 33 S., R. 24 W.,
Sec. 12, lots 2, 3, and 4.

Containing 172.36 acres as shown on the plat of survey officially filed on December 3, 1999.

Aggregating 1,597.39 acres.

A notice of the decision will be published once a week, for four (4) consecutive weeks, in the *Kodiak Daily Mirror* newspaper. Copies of the decision may be obtained by contacting the Alaska State Office of the Bureau of Land Management, 222 West Seventh Avenue, #13, Anchorage, Alaska 99513–7599 ((907) 271–5960).

Any party claiming a property interest which is adversely affected by the decision, an agency of the Federal government or regional corporation, shall have until (August 25, 2000) to file an appeal. However, parties receiving service by certified mail shall have 30 days from the date of receipt to file an appeal. Appeals must be filed in the Bureau of Land Management at the address identified above, where the requirements for filing an appeal may be obtained. Parties who do not file an appeal in accordance with the requirements of 43 CFR Part 4, Subpart E, shall be deemed to have waived their rights.

Dennis R. Benson,

Land Law Examiner, Branch of ANCSA Adjudication.

[FR Doc. 00–18860 Filed 7–25–00; 8:45 am]

BILLING CODE 4310–$$–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CO–13000–1210–PA]

Wilderness Study Area Management; Year Round Closure of Pollock Bench Trail to Mountain Biking

AGENCY: Bureau of Land Management, Department of the Interior.

ACTION: Notice of intent to close Pollock Bench Trail to mountain bike use in the Black Ridge Canyons Wilderness Study Area.

SUMMARY: This order, issued under the authority of section 303 of the Federal Land Policy and Management Act of 1976 and 43 CFR 8364.1, prohibits use of the Pollock Bench Trail by mountain bikes in the Black Ridge Canyons Wilderness Study Area. The identified public lands are in Colorado, Mesa County, under the management jurisdiction of the Bureau of Land Management, Grand Junction Field Office. The area is located in T.1 N., R.3 W., Sections 14, 15, 22, and 27.

EFFECTIVE DATES: The closure shall be in effect year round beginning July 31, 2000 and shall remain in effect permanently.

SUPPLEMENTARY INFORMATION: BLM administers approximately 75,000 acres in the Black Ridge Canyons Wilderness Study Area (WSA). Contained within this WSA is the Pollock Bench Trail which has been open to mountain biking since the area became a WSA in the early 1980's. At that time, all types of use, including mountain bike use of the trail was very light. In recent years, the trail has become increasingly popular for mountain biking due to its close proximity to the cities of Fruita and Grand Junction. As a result of the large numbers of bikers now using the area, the trail is becoming wider in many places and off-trail tracks are very numerous. Riders are leaving the existing track along the majority of the trail. Numerous tracks can be seen passing through or around vegetation, leaving the trail for no apparent reason, or to access overlook spots. This use has created impairment of the areas wilderness values as defined in the BLM's Interim Management Policy and Guidelines for Lands Under Wilderness Review. Additionally, the cumulative impact of a higher and higher percentage of bikers using the trail is negatively affecting the recreation experience and safety of other trail users. This closure is necessary to protect the area's wilderness characteristics.

Notice of this closure will be posted at the BLM's Grand Junction Field Office as well as on-the-ground at the Pollock Bench Trailhead and at the Wilderness Study Area boundary.

Penalties: Violations of this restriction order are punishable by fines not to exceed $1,000 and/or imprisonment not to exceed 12 months.

FOR FURTHER INFORMATION CONTACT: Catherine Robertson, Field Manager, Grand Junction Field Office, 2815 H Road Grand Junction, Colorado 81506; (970) 244–3010.

Catherine Robertson,

Grand Junction Field Manager.

[FR Doc. 00–18861 Filed 7–25–00; 8:45 am]

BILLING CODE 4310–JB–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA–650–1430–ET; CACA 42078]

Public Land Order No. 7459; Partial Revocation of California Desert Protection Act of 1994; California

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order partially revokes the California Desert Protection Act of 1994 insofar as it affects 42.3 acres within the boundaries of the China Lake Naval Weapons Center withdrawn for the Department of the Navy for military purposes. The land is no longer needed for the purpose for which it was withdrawn. This action returns the land to Bureau of Land Management administration and opens it to surface entry and mineral leasing. The land will remain withdrawn from mining due to an overlapping withdrawal.

EFFECTIVE DATE: August 25, 2000.

FOR FURTHER INFORMATION CONTACT: Duane Marti, BLM California State Office, 2800 Cottage Way, Suite W–1834, Sacramento, California 95825–1886, 916–978–4675.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (1994), and by Section 808 of the California Desert Protection Act of 1994, 108 Stat. 4506, it is ordered as follows:

1. The withdrawal created by Section 803(a) of the California Desert Protection Act of 1994, for military purposes, is hereby revoked insofar as it affects the following described land:

Mount Diablo Meridian

T. 27 S., R. 41 E.,

Sec. 5, that portion more particularly described in Record of Survey 98–0045 on file in the Official Records of the County of San Bernardino Recorder's Office, in Book 110 at Pages 95 and 96 of the Record of Survey.

The area described contains 42.3 acres, more or less, in San Bernardino County.

2. At 10 a.m. on August 25, 2000, the land will be opened to the operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, other segregations of record, and the requirements of applicable law. All valid applications received at or prior to 10 a.m. on August 25, 2000, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of the filing.

3. At 10 a.m. on August 25, 2000, the land will be opened to the operation of the mineral leasing laws, subject to valid existing rights, the provisions of existing withdrawals, other segregations of record, and the requirements of applicable law.

Dated: July 7, 2000.

Sylvia V. Baca,

Assistant Secretary of the Interior.

[FR Doc. 00–18886 Filed 7–25–00; 8:45 am]

BILLING CODE 4310–40–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ID–080–1220–PA]

Restriction Order for BLM Lands in Gamlin Lake Area, Bonner County, Idaho No. ID–080–24

AGENCY: Bureau of Land Management, Upper Columbia-Salmon Clearwater District, Idaho Department of the Interior.

ACTION: Notice of restriction order for BLM Lands in Gamlin Lake area, Bonner County, Idaho, Order No. ID–080–24.

SUMMARY: By order, the following restrictions apply to the Gamlin Lake Special Management Area, described as all public land administered by the Bureau of Land Management (BLM) located in Section 7, T.56N., R.1E., Boise Meridian. Maps depicting the restricted area are available for public inspection at the BLM, Coeur d'Alene Field Office, 1808 North Third St., Coeur d'Alene, Idaho 83814.

1. Overnight camping by any person or group of persons is prohibited.

2. Grazing and equestrian activities (to include recreational or personal uses) with horses and similar animals such as mules, burrows, and llamas are prohibited.

The authority for establishing these restrictions is Title 43, Code of Federal Regulations, 8364.1.

3. Use of motorized vehicles on other than existing county roads is prohibited. The authority for establishing this restriction is Title 43, Code of Federal Regulations, 8341.2. These restrictions become effective immediately and shall remain in effect until revoked. These restrictions do not apply to:

(1) Any federal, state, or local official or member of an organized rescue or fire fighting force while in the performance of an official duty.

(2) Any Bureau of Land Management employee, agent, contractor, or cooperator while in the performance of an official duty.

(3) Any person or group expressly authorized by an Authorized Officer to use or occupy the subject public land through the issuance of a special recreational use permit or other use authorization.

These restrictions are necessary because the area does not have facilities which can accommodate overnight camping and the activities associated with long-term occupancy; trails aren't constructed to accommodate equestrian activities; and to protect the public land from soil erosion and habitat degradation due to off-road vehicle use.

Violation of this order is punishable by a fine not to exceed $1,000 and/or imprisonment not to exceed 12 months.

FOR FURTHER INFORMATION CONTACT: Eric Thomson, Field Manager, Bureau of Land Management Coeur d'Alene Field Office, 1808 N. Third Street, Coeur d'Alene, Idaho 83814.

Dated: July 13, 2000.

Ted Graf,

Acting District Manager.

[FR Doc. 00–18836 Filed 7–25–00; 8:45 am]

BILLING CODE 4310–66–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CO–14000–00–1220–00]

Camping Closure In Horseshoe Bend Area of Glenwood Springs Field Office; Colorado

AGENCY: Bureau of Land Management, Department of the Interior.

ACTION: Order of camping restriction.

SUMMARY: This order closes to camping and overnight use, public lands in the Horseshoe Bend area, east of Glenwood Springs, Colorado. The affected public land is generally located south of Interstate 70, along the Glenwood Canyon bicycle path, east of Glenwood Springs, Colorado. The camping closure includes public lands in T. 6 S., R. 89 W., Section 3 SE¼ 6th Principal Meridian; Garfield County.

This action is in accordance with the Glenwood Springs Resource Management Plan, Record of Decision (BLM, 1984). This order, issued under the authority of 43 CFR 8364.1, is established to protect persons, property, public lands and resources. Any camping or overnight use within the closed area, year-round, is prohibited. This order does not affect day time use.

EFFECTIVE DATES: The restriction shall be effective upon publication until rescinded or modified by the Authorized Officer.

SUPPLEMENTARY INFORMATION: The area affected by this order has been damaged by long term camping, trash and improper disposal of human waste. It is along a popular bicycle route along the Colorado River to Glenwood Springs, used extensively for day-time use. The existence of large camps along the trail conflicts with this use, local residences and is a negative visual impact for heavy river use.

The area and routes affected by this order will be posted with appropriate regulatory signs in such a manner and location as is reasonable to bring prohibitions to the attention of visitors. Information, including maps of the restricted area, is available in the Glenwood Springs Field Office at the addresses shown below.

Persons who are exempt from the restrictions include: (1) Any Federal, State, or local officers engaged in fire, emergency and law enforcement activities; (2) BLM employees engaged in official duties; (3) Persons authorized by permit to camp in the closed area.

PENALTIES: Any person who fails to comply with the provisions of this order may be subject to penalties outlined in 43 CFR 8360.0–7.

ADDRESSES: Field Office Manager, Glenwood Springs Field Office, Bureau of Land Management, 50629 Highway 6 & 24, P.O. Box 1009, Glenwood Springs, CO 81602.

FOR FURTHER INFORMATION CONTACT: Dorothy Morgan (970) 947–2806.

Anne Huebner,

Glenwood Springs Field Office Manager.

[FR Doc. 00–18837 Filed 7–25–00; 8:45 am]

BILLING CODE 4310–JB–P

DEPARTMENT OF THE INTERIOR

National Park Service

Draft Legislative Environmental Impact Statement, Timbisha Shoshone Homeland In and Around Death Valley National Park; Notice of Second Extension of Public Comment Period

SUMMARY: Pursuant to § 102(2)(C) of the National Environmental Policy Act of 1969 (P.L. 91–190 as amended), the National Park Service, Department of the Interior, has prepared a Draft Legislative Environmental Impact Statement (LEIS) assessing potential impacts of Congress establishing a proposed Timbisha Shoshone Tribal Homeland in and around Death Valley National Park, California. The Draft LEIS identifies parcels of land suitable for the Timbisha Shoshone Indian Tribe to establish a permanent homeland. In deference to public interest expressed to date from local governmental agencies, organizations, and other interested parties, the original 60-day public comment period has been extended for a total of 30 calendar days from the original July 22, 2000 deadline.

SUPPLEMENTARY INFORMATION: Interested individuals, organizations, and agencies are encouraged to provide written comments—to be considered any response must now be postmarked no later than August 21, 2000.

All responses should be addressed to the Superintendent, Death Valley National Park, P.O. Box 579, Death Valley, California 92328. If individuals submitting comments request that their name or\and address be withheld from public disclosure, it will be honored to the extent allowable by law. Such requests must be stated prominently in the beginning of the comments. There also may be circumstances wherein the NPS will withhold a respondent's identity as allowable by law. As always: NPS will make available to public inspection all submissions from organizations or businesses and from persons identifying themselves as representatives or officials of organizations and businesses; and, anonymous comments may not be considered.

To obtain a copy of the LEIS please contact Bettie Blake at (760) 786–3243. All other questions can be directed to Joan DeGraff at (760) 255–8830.

Dated: July 18, 2000.

James R. Shevock,

Acting Regional Director, Pacific West Region.

[FR Doc. 00–18841 Filed 7–25–00; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

Golden Gate National Recreation Area; Correction to Notice of Proposed Year-Round Closure at Fort Funston and Request for Comments

CORRECTION: Public comments on this notice must be received by September 18, 2000.

Dated: July 17, 2000.

Donald Mannel,

Acting Superintendent, GGNRA.

[FR Doc. 00–18842 Filed 7–25–00; 8:45 am]

BILLING CODE 4310–70–M

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 731–TA–457 A–D (Review)]

Heavy Forged Handtools From China

Determinations

On the basis of the record [1] developed in the subject five-year reviews, the United States International Trade Commission determines, pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)) (the Act), that revocation of the antidumping duty orders on heavy forged handtools from China would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

Background

The Commission instituted these reviews on July 1, 1999 (64 FR 35682) and determined on October 1, 1999 that it would conduct full reviews (64 FR 55958, October 15, 1999). Notice of the scheduling of the Commission's reviews and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** on February 10, 2000 (65 FR 6626). The hearing was held in Washington, DC, on May 16, 2000, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determinations in these reviews to the Secretary of Commerce on July 19, 2000. The views of the Commission are contained in USITC Publication 3322 (July 2000), entitled Heavy Forged Handtools from China: Investigations Nos. 731–TA–457 (A–D) (Review).

By order of the Commission.

Dated: July 21, 2000.

Donna R. Koehnke,

Secretary.

[FR Doc. 00–18925 Filed 7–25–00; 8:45 am]

BILLING CODE 7020–02–P

[1] The record is defined in § 207.2(f) of the Commission's rules of practice and procedure (19 CFR 207.2(f)).

INTERNATIONAL TRADE COMMISSION

[Investigation 332–419]

Pricing of Prescription Drugs

AGENCY: United States International Trade Commission.

ACTION: Institution of investigation.

EFFECTIVE DATE: July 19, 2000.

SUMMARY: Following receipt of a request on June 29, 2000, from the Committee on Ways and Means (the Committee) of the United States House of Representatives, the Commission instituted investigation No. 332–419, Pricing of Prescription Drugs, under section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)).

FOR FURTHER INFORMATION CONTACT: Elizabeth R. Nesbitt, Project Leader (202–205–3355) or Raymond L. Cantrell, Deputy Project Leader (202–205–3362), Office of Industries, or Michael Barry, Deputy Project Leader (202–205–3246), Office of Economics, U.S. International Trade Commission, Washington, DC 20436. For information on the legal aspects of this investigation, contact William Gearhart of the Office of the General Counsel (202–205–3091). Hearing impaired individuals are advised that information on this matter can be obtained by contacting the TDD terminal on (202) 205–1810.

BACKGROUND: The Committee requested that the Commission's report include the following information for Canada, France, Germany, Italy, Japan, Mexico, Russia, and the United Kingdom:

- The process by which prescription drug prices are established;
- The role of compulsory licensing in setting prices;
- A description of the costs associated with the development of prescription drugs, and a comparison of the authorized prices in the specified countries; and
- Whether and to what extent price control systems utilized by such countries impact pricing for comparable drugs in the United States.

The Commission plans to submit its report to the Committee by September 29, 2000.

Written Submissions: A hearing will not be held. Instead, interested parties are invited to submit written statements (original and 14 copies) concerning the matters to be addressed by the Commission in its report on this investigation. In addition to general information regarding prices and pricing practices prevalent in each of the countries under consideration, the Commission is particularly interested in comments regarding the question raised by the Committee in their request regarding the extent to which price control systems utilized by the countries under consideration impact pricing for comparable drugs in the United States. Commercial or financial information that a person desires the Commission to treat as confidential must be submitted on separate sheets of paper, each clearly marked ''Confidential Business Information'' at the top. All submissions requesting confidential treatment must conform with the requirements of § 201.6 of the Commission's rules of practice and procedure (19 CFR 201.6). All written submissions must conform with the provisions of § 201.8 of the Commission's Rules. All written submissions, except for confidential business information, will be made available in the Office of the Secretary of the Commission for inspection by interested parties. To be assured of consideration by the Commission, written statements relating to the Commission's report should be submitted to the Commission at the earliest practical date and should be received no later than the close of business on August 4, 2000. All submissions should be addressed to the Secretary, United States International Trade Commission, 500 E Street SW, Washington, DC 20436. The Commission's rules do not authorize filing submissions with the Secretary by facsimile or electronic means.

Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its Internet server (http://www.usitc.gov).

List of Subjects: Prescription drugs, Price controls, Compulsory licensing.

Dated: July 21, 2000.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 00–18924 Filed 7–25–00; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Inv. No. 337–TA–426]

Notice of Commission Determination Not To Review an Initial Determination Terminating the Investigation Based on Withdrawal of the Complaint

In the matter of certain spiral grill products including ducted fans and components thereof.

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review the initial determination (ID) of the presiding administrative law judge (ALJ) terminating the above-captioned investigation on the basis of complainant's withdrawal of its complaint.

FOR FURTHER INFORMATION CONTACT: Donnette Rimmer, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202–205–0663.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on January, 26, 2000, based on a complaint filed by Vornado Air Circulation Systems, Inc. of Andover, Kansas (''Vornado''). 65 FR 4260.

On June 1, 2000, Vornado filed a motion to terminate the investigation without prejudice based on withdrawal of its complaint. On June 12, 2000, respondents, The Holmes Group, Inc., of Milford, Massachusetts, Holmes Products (Far East) Ltd. (Hong Kong), and Holmes Products (Far East) Ltd. (Taiwan), (collectively ''Holmes''), and the Commission investigative attorney filed separate submissions in support of complainant's motion to terminate the investigation. On June 16, 2000, the presiding ALJ issued an ID granting complainant's motion.

No petitions for review of the ID were filed.

This action is taken under the authority of section 337 of the Tariff Act of 1930, 19 U.S.C. 1337, and Commission rule 210.42(h), 19 CFR 210.42(h).

Copies of the public version of the ID, and all other nonconfidential documents filed in connection with this investigation, are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone 202–205–2000. Hearing-impaired persons are advised that information on the matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810. General information concerning the Commission may also be obtained by accessing its Internet server (http://www.usitc.gov).

By order of the Commission.

Dated: July 20, 2000.

Donna R. Koehnke,

Secretary.

[FR Doc. 00–18923 Filed 7–25–00; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: United States International Trade Commission

TIME AND DATE: August 2, 2000 at 2 p.m.

PLACE: Room 101, 500 E Street S.W., Washington, DC 20436, Telephone: (202) 205–2000.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda for future meeting: none.
2. Minutes.
3. Ratification List.
4. Inv. Nos. 731–TA–860 (Final)(Tin-and Chromium-Coated Steel Sheet from Japan)—briefing and vote. (The Commission is currently scheduled to transmit its determination to the Secretary of Commerce on August 9, 2000.)
5. Inv. No. 731–TA–856 (Final) (Certain Ammonium Nitrate from Russia)—briefing and vote. (The Commission is currently scheduled to transmit its determination to the Secretary of Commerce on August 14, 2000.)
6. Outstanding action jackets: none.

In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

Issued: July 21, 2000.

By order of the Commission:

Donna R. Koehnke,

Secretary.

[FR Doc. 00–19036 Filed 7–24–00; 3:35 pm]

BILLING CODE 7020–02–P

DEPARTMENT OF LABOR

Employment and Training Administration

Proposed Collection of the ETA 205, Preliminary Estimates of Average Employer Contribution Rates; Comment Request

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on a proposed continuance for a collection of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Employment and Training Administration is soliciting comments concerning the proposed extension of the ETA 205, Preliminary Estimates of Average Employer Contribution Rates. A copy of the proposed information collection request (ICR) can be obtained by contacting the office listed below in the addressee section of this notice.

DATES: Written comments must be submitted to the office listed in the addressee section below on or before September 30, 2000.

ADDRESSES: Tom Stengle, Office of Workforce Security, Employment and Training Administration, U.S. Department of Labor, Room S–4231, 200 Constitution Avenue, N.W., Washington, D.C. 20210; telephone number (202) 219–7196 ext. 377; fax: (202) 219–8506 (these are not toll-free numbers) or email tstengle@doleta.gov.

SUPPLEMENTARY INFORMATION:

I. Background

The ETA 205 reports preliminary information on the taxation efforts in States relative to taxable and total wages and allows for comparison among States. The information is used for projecting unemployment insurance tax revenues for the Federal budget process as well as for actuarial analyses of the Unemployment Trust Fund. The data is published in several forms and is often requested by data users. In addition, this report helps to fulfill two statutory requirements. Section 3302(d)(7) of the Federal Unemployment Tax Act (FUTA) requires the Secretary of Labor to notify ''the Secretary of the Treasury before June 1 of each year, on the basis of a report furnished by such State to the Secretary of Labor before May 1 of such year'' of the difference between the average tax rate in a State and the 2.7 percent (*i.e.* section 3302(c)(2)(B) or (C)). These differences are used to calculate the loss of FUTA offset credit for borrowing States. Also, the tax schedules are used to assure that States are in compliance with provisions of the Tax Equity and Fiscal Responsibility Act (P.L. 97–248), section 281.

II. Review Focus

The Department of Labor is particularly interested in comments which:

• Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

• Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

• Enhance the quality, utility, and clarity of the information to be collected; and

• Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses.

III. Current Actions

Type of Review: Extension.

Agency: Employment and Training Administration.

Title: Preliminary Estimates of Average Employer Contribution Rates.

OMB Number: 1205–0228.

Agency Number: ETA.

Affected Public: State Governments.

Cite/Reference/Form/etc: ETA 205.

Total Respondents: 53.

Frequency: Annual.

Total Responses: 53.

Average Time per Response: 15 minutes.

Estimated Total Burden Hours: 14.

Total Burden Cost (capital/startup): $0.00.

Comments submitted in response to this comment request will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: July 17, 2000.

Grace A. Kilbane,

Director, Office of Workforce Security.

[FR Doc. 00–18864 Filed 7–25–00; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

Federal-State Unemployment Compensation Program: Unemployment Insurance Program Letter Interpreting Federal Unemployment Insurance Law

The Employment and Training Administration interprets Federal law requirements pertaining to unemployment compensation (UC) as part of its role in the administration of the Federal-State UC program. These interpretations are issued in Unemployment Insurance Program Letters (UIPLs) to the State Employment Security Agencies. The UIPL described below is published in the **Federal Register** in order to inform the public.

UIPL 41–98, Change 1

UIPL 41–98, Change 1, provides further information and guidance concerning the requirements of the prevailing conditions of work provisions of Section 3304(a)(5)(B) of the Federal Unemployment Tax Act. It also provides answers to questions raised by State Employment Security Agencies and other interested parties.

Dated: July 20, 2000.

Raymond Bramucci,

Assistant Secretary of Labor.

U.S. Department of Labor

Employment and Training Administration, Washington, D.C. 20210

Classification: UI
Correspondence Symbol: TEUL
Date: July 19, 2000

Directive: Unemployment Insurance Program Letter No. 41–98 Change 1.

To: All State Employment Security Agencies.

From: Grace A. Kilbane, Administrator, Office of Workforce Security.

Subject: Application of the Prevailing Conditions of Work Requirement—Questions and Answers.

1. *Purpose.* To provide further information and guidance concerning the requirements of the prevailing conditions of work provisions of the Federal Unemployment Tax Act (FUTA) and to provide answers to questions raised by State Employment Security Agencies (SESAs) and other interested parties.

2. *References.* Section 3304(a)(5)(B), FUTA; Unemployment Compensation Program Letter (UCPL) No. 130; Unemployment Insurance Program Letter (UIPL) No. 984; UIPL No. 41–98;

Sections 6010–6015, Part V, of the *Employment Security Manual.*

3. *Background.* Section 3304(a)(5)(B), FUTA, requires, as a condition of employers in a State receiving credit against the Federal unemployment tax, that the State shall not deny unemployment compensation (UC) to any otherwise eligible individual for refusing to accept new work:

if the wages, hours, or other conditions of the work offered are substantially less favorable to the individual than those prevailing for similar work in the locality;

On August 17, 1998, the Department of Labor issued UIPL No. 41–98 to remind States of the requirements of the prevailing conditions of work provision of Section 3304(a)(5)(B), FUTA, and to provide additional guidance to States when adjudicating prevailing conditions issues. UIPL No. 41–98 reiterated the guidance previously issued in UCPL No. 130 and UIPL No. 984 and addressed a change in the labor market (since the issuance of those two program letters)—the increase in temporary work—and its relation to the prevailing conditions requirement. It also expanded on the guidance found in UIPL No. 984 that a change in the duties, terms, or conditions of the work is, in effect, an offer of ''new work.''

The Department has received several comments and questions requesting further information and guidance concerning the prevailing conditions of work requirement. Therefore, this Change 1, incorporating answers to common questions regarding this requirement, is issued to assist States in applying the provision.

4. *Inquiries.* Please direct inquiries to the appropriate Regional Office.

Attachment—Questions and Answers.

Questions and Answers

I. New Work

Q1. What constitutes new work?

A. New work is defined in both UIPL No. 41–98 and UIPL No. 984. On page 4, Section 4.b., of UIPL No. 41–98, new work is defined to include:

(1) An offer of work to an individual by an employer with whom the worker has never had a contract of employment,

(2) An offer of reemployment to an individual by a previous employer with whom the individual does not have a contract of employment at the time the offer is made, and

(3) An offer by an individual's present employer of:

(a) Different duties from those the individual has agreed to perform in the existing contract of employment; *or*

(b) Different terms or conditions of employment from those in the existing contract. [Emphasis in original.]

This restates the definition of new work contained on page 3 of UIPL No. 984.

Q2. How does the definition of new work apply to changes in the employment conditions for an individual by the current employer? Is any change in conditions an offer of new work?

A. States are not required to treat any minor change in a job situation as an offer of new work. For a change in job situation to be considered new work, the change must be material. For example, if an individual is reassigned from one general secretarial position to another general secretarial position, and the only change is a different supervisor, an offer of new work does not exist under the prevailing conditions requirements. On the other hand, if the new assignment is as an accounting clerk, when the previous assignment was as a secretary, the change is material and the prevailing conditions requirements apply. (Note that the actual duties, and not simply job titles, must be examined. See Q & A #10.) This test for new work with a current employer applies to new assignments from either permanent employers or temporary help firms. In applying this test to either situation, States must determine on a case-by-case basis whether a change is material.[1]

Q3. When an individual works for a temporary help firm, and an assignment ends, is the offer of another assignment new work?

A. Not always. For the new assignment to be new work, the change between the assignments must be material. For example, if the first assignment was as a secretary at a rate of pay of $10 per hour at ABC Company, and the second assignment is as a secretary at a rate of pay of $10 per hour for XYZ Company (and there are no other changes), the second assignment is not an offer of new work, because the change in conditions is not material. On the other hand, if the second assignment is as an accounting clerk, even at the same rate of pay, the change is material, because the duties are substantially different; therefore, the offer is an offer of new work. (As discussed in Q and A #10, the actual duties, and not simply job titles, must be examined.) Alternatively, if the second assignment is as a secretary, but at a rate of pay of $8 an hour, a material change in conditions exists.

Q4. Does a new assignment from a temporary help firm constitute new work when there is no break in employment between assignments? For example, if the individual's first assignment ends on Tuesday and the new assignment starts on Wednesday, there is no break in employment.

A. Provided the new assignment meets all other criteria for new work, the new assignment is new work. Whether there is a break in the employment relationship is not relevant. As stated in UIPL 41–98, new work includes an offer by an individual's ''present employer.''

II. Determining Prevailing Conditions

Q5. May temporary work be compared only with temporary work for purposes of determining what constitutes similar work?

A. No. UIPL No. 41–98 states (on page 10) that new temporary work must be compared not just with similar temporary work, but with ''all work, temporary and permanent, in a similar occupational category.'' This statement continued the Department's precedent established in UCPL No. 130, dating from 1947, that the work offered is compared with similar work in the occupation. UCPL No. 130 also states on page 5 of its attachment that—

Neither should the question of what is similar work be determined on the basis of other factors [such as] * * * the permanency of the work. * * * These other factors must be considered, but only after the question of what is similar work is decided. If they were considered in determining what is similar work, such considerations would beg the very question at issue: what *conditions* generally prevail for similar work? [Emphasis in original.]

The Department believes that the use of occupation is the proper starting point for determining what is and is not similar work. However, as discussed in Question and Answer 9 below, it is not sufficient in itself. If the basic type of work offered (for example, secretarial) for temporary employment is the same basic type of work offered for permanent employment, then the difference is in one of the conditions of the employment—permanent or temporary. Since the prevailing conditions requirement applies to ''wages, hours or other conditions of work,'' the temporary nature of the work must be taken into account in applying the prevailing conditions of work requirement and in determining

[1] Some changes in working conditions, such as a change in the physical location of the work, while not raising an issue under the Federal prevailing conditions requirements, may create an inquiry as to whether the work meets the suitability requirements of State law.

whether the work offered is substantially less favorable to the individual.

Q6. Must fringe benefits be considered in every case involving a prevailing conditions issue?

A. No. When a prevailing conditions issue is raised, the State need only examine those prevailing conditions such as hours, wages, physical conditions of the work, or fringe benefits that the State has reason to believe may be less than prevailing. However, if the individual raises a prevailing conditions of work issue concerning fringe benefits, the fringe benefits must be examined.

Q7. May wage and fringe benefit packages be combined when determining what is prevailing? May they be combined even if one element is not prevailing? For example, a building trades job offers higher than prevailing wages but no health insurance or retirement plan where those benefits are a prevailing condition in the locality. Must a value be placed on the fringe benefits to make a comparison?

A. FUTA is silent on this matter. Therefore, States may either consider fringe benefits as part of wages or treat them separately for purposes of the prevailing conditions requirement. If a State combines fringe benefits with wages, fringe benefits must be given a cash value and included in the calculation of wages.

Q8. May the State presume that a negotiated union wage and benefit package is not substantially less favorable than the conditions prevailing in the locality?

A. No. Determinations must not be made based on presumptions. States always must obtain as much information as necessary in each individual case to support a decision that conditions of a job offer meet the prevailing conditions requirement.

Q9. May the existence of a contract, collectively bargained or otherwise, that grants the employer the right to change employment conditions obviate the requirement to analyze whether a change in employment is new work? For example, a contract may provide for bumping rights as a result of a reduction-in-force or give management the right to transfer the worker to a new job.

A. No. As stated in Section 4.b. of UIPL No. 41–98, a finding that a change in employment is new work may not be limited by an employment contract which grants the employer the right to change employment conditions. This applies even if the employer is forced to change the employment conditions as a result of a collective bargaining agreement.

Q10. May the inquiry of what constitutes ''similar work'' be limited to occupation?

A. No. Occupation by itself is not sufficient. As stated on page 4 of the attachment to UCPL No. 130, ''job titles are sometimes misleading.'' This UCPL also states that:

Different occupation and grade designations are often used in different establishments for the same work. Conversely, the same titles are sometimes used for different kinds of work. *The actual comparison of jobs must therefore be made on the basis of the similarity of the work done without regard to title:* that is, the similarity of the operations performed, the skill, ability and knowledge required, and the responsibilities involved. *[Emphasis in original.]*

In sum, the State must consider the knowledge, skills, abilities, and duties involved in the work.

Q11. Must States determine a separate prevailing criterion for entry level versus all other steps within a given occupation?

A. Yes. If the issue is skill grade within an occupation, the State must break down the given occupation accordingly. States also must distinguish other steps within the occupation from each other, when important differences exist between those steps. See also the answer to the previous question. In addition, as stated on pages 4 and 5 of the attachment to UCPL No. 130:

The nature of the services rendered may also be differentiated within an occupational category by the degree of skill and knowledge required. The work of a head bookkeeper in a large concern who sets up the bookkeeping system and assumes responsibility for it, is clearly different from that of a bookkeeper in charge of ''accounts payable'' or a posting clerk in the department.

The UCPL goes on to state:

[T]he fact that ''similar'' makes allowance for some difference though it implies a marked resemblance must also be given weight. Too fine a distinction is likely to result in a comparison of identical rather than similar work. Generally, distinctions should be made within an occupation only when important differences in the performance of the job outweigh the essential similarity of the work.

Q12. Is asking the parties the only feasible way of obtaining labor market information as to prevailing fringe benefits?

A. Not necessarily. However, alternatives are sometimes not available. States should, however, first use whatever resources are available to determine prevailing fringe benefits. Some sources are unions, Job Service records, or the Bureau of Labor Statistics.

III. Substantially Less Favorable to the Individual

Q13. Are assignments offered by a temporary help agency always substantially less favorable to the individual than permanent employment?

A. No. There are several considerations that must be addressed to determine if the offer is substantially less favorable to the individual.

States must first determine whether the temporary nature of the work offered is prevailing in the locality. As noted on page 10 of UIPL No. 41–98, if ''the norm for a particular occupation in a locality is temporary work, then temporary work is the prevailing condition of such work.'' There then exists no issue whether the temporary nature of new work is substantially less favorable to the individual. (However, fringe benefits, wages, hours, and other conditions also may be relevant in determining if the offer is substantially less favorable to the individual.)

Another consideration is whether the temporary employer demonstrates that the ''temporary'' worker will continue to be employed at the end of each individual assignment, but merely on different assignments with the same duties and pay. If this occurs, then the duration of the work is indefinite.

Another consideration is whether a particular condition (such as the temporary nature of the work refused) is actually *less* favorable *to the individual* than that prevailing for similar work in the locality. The next question and answer addresses this issue.

As is the case for all determinations, determinations regarding whether the work is substantially less favorable to the individual must be made by the State in accordance with the requirements of the Standard for Claims Determination, Sections 6010–6015, Part V, of the Employment Security Manual.

Q14. May the language ''to the individual'' be applied so as to interpret a short-term offer from a temporary help agency as being *not* substantially less favorable to an individual who has sought out and desires work in the temporary (as opposed to the permanent) market because of personal circumstances, such as a need to be flexibly in and out of the labor market?

A. Yes. If the temporary nature of the work is a voluntary or favorable condition of work for the individual, then UC may be denied if work is refused. As stated in the last full paragraph on page 10 of UIPL No. 41–98, ''the short-term duration of temporary work may be a voluntary or favorable condition for some individuals. If the State establishes through fact finding that this is the case for an individual, then the work offered is 'not less favorable to the individual' than the work prevailing in the locality.''

Q15. May a State deny UC if an individual refuses an offer of work on a non-prevailing shift? Does the answer change if the individual has a preference for the non-prevailing shift?

A. A State may not deny UC in this instance unless the individual has a preference for the non-prevailing shift. Shifts are addressed on page 22 of UCPL No. 130: ''* * * second or third shift work would generally be substantially less favorable if most of the workers in the occupation were employed on the first shift. It is because the second and third shifts are recognized as less convenient by both employers and employees that differentials are frequently paid for such work.''

The State must, however, determine whether working on a certain shift actually is a non-prevailing condition. For example, suppose that the prevailing condition for a particular type of work in a given locality is that almost all employers operate three shifts a day. Therefore, the State could determine that any of the three shifts meets the prevailing conditions requirement. Conversely, if the prevailing condition in the locality is to operate only two shifts, a day shift and an evening shift, an offer of work on a third shift, the night shift, would fail to meet the prevailing conditions test. However, if the individual has a preference for the non-prevailing shift, then that shift is not a condition of work that is less favorable to the individual and UC may be denied. (Also see the footnote to Question 2 above.)

[FR Doc. 00–18867 Filed 7–25–00; 8:45 am]
BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Bureau of Labor Statistics

Proposed Collection; Comment Request

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. The Bureau of Labor Statistics (BLS) is soliciting comments concerning the proposed reinstatement of the Contingent Work Supplement to the Current Population Survey (CPS). A copy of the proposed information collection request (ICR) can be obtained by contacting the individual listed in the **ADDRESSES** section of this notice.

DATES: Written comments must be submitted to the office listed in the **ADDRESSES** section of this notice on or before September 25, 2000.

ADDRESSES: Send comments to Sytrina D. Toon, BLS Clearance Officer, Division of Management Systems, Bureau of Labor Statistics, Room 3255, 2 Massachusetts Avenue, N.E., Washington, D.C. 20212, telephone number 202–691–7628 (this is not a toll free number).

FOR FURTHER INFORMATION CONTACT: Sytrina D. Toon, BLS Clearance Officer, telephone number 202–691–7628. (See **ADDRESSES** Section.)

SUPPLEMENTARY INFORMATION:

I. Background

The CPS has been the principal source of the official Government statistics on employment and unemployment for over 50 years. Collection of labor force data through the CPS is necessary to meet the requirements in Title 29, United States Code, Sections 1 through 9. Since the mid-1980s, there has been a growing belief among labor market researchers that employers require greater flexibility in their use of labor. As a result, many workers find themselves in ''contingent jobs'' that are structured to last for only limited duration or in alternative employment arrangements such as independent contracting, on-call work, working through a contract company or through a temporary help firm. It is feared that workers with such employment may have little job security, low pay, and no employee benefits. This CPS supplement will provide objective information about ''contingent work.''

II. Desired Focus of Comments

The Bureau of Labor Statistics is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses.

III. Current Action

The Contingent Work Supplement to the CPS provides information on the number and characteristics of workers in contingent jobs, that is, jobs that are structured to last only a limited period of time. The survey also provides information about workers in several alternative employment arrangements, including those working as independent contractors and on-call workers, as well as through temporary help agencies or contract companies.

Type of Review: Reinstatement, with change, of a previously approved collection for which approval has expired.

Agency: Bureau of Labor Statistics.

Title: Contingent Work Supplement to the Current Population Survey.

OMB Number: 1220–0153.

Affected Public: Households.

Total Respondents: 48,000.

Frequency: Monthly.

Total Responses: 48,000.

Average Time Per Response: 9 minutes.

Estimated total Burden Hours: 7,200 hours.

Total Burden Cost (capital/startup): $0.

Total Burden Cost (operating/maintenance): $0.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the

information collection request; they also will become a matter of public record.

Signed at Washington, D.C., this 20th day of July 2000.

W. Stuart Rust, Jr.,

Chief, Division of Management Systems, Bureau of Labor Statistics.

[FR Doc. 00–18868 Filed 7–25–00; 8:45 am]

BILLING CODE 4510–24–M

NATIONAL SCIENCE FOUNDATION

Sunshine Act Meeting

DATE AND TIME: August 2, 2000: 12:30 p.m.—1 p.m.—Closed Session.

August 3, 2000: 11:30 a.m.—12 Noon—Closed Session.

August 3, 2000: 12:30 p.m.—4:30 p.m.—Open Session.

August 3, 2000: 4:30 p.m.—6 p.m.—Closed Session.

PLACE: The National Science Foundation, Room 1235, 4201 Wilson Boulevard, Arlington, VA 22230.

STATUS: Part of this meeting will be closed to the public. Part of this meeting will be open to the public.

MATTERS TO BE CONSIDERED:

Wednesday, August 2

Closed Session (12:30 p.m.—1 p.m.)

—Closed Session Minutes, May 2000
—NSB Executive Committee Elections
—NSB Member Proposals

Thursday, August 3

Closed Session (11:30 a.m.—12 Noon)

—Awards and Agreements

Open Session (12:30 p.m.—4:30 p.m.)

—Swearing-in, NSB Nominees
—Open Session Minutes, May 2000
—Closed Session Items for October 2000
—Chairman's Report
—Director's Report
—NSF Planning Issues
Priority Setting; Diversity
—National S&E Infrastructure
—EHR Program Approvals
Federal Cyber Service
Centers for Learning and Teaching
—NSB Report—Communicating Science in the National Interest
—Committee Reports
—Presentation: NSF Office of the Inspector General
—Other Business

Closed Session (4:30 p.m.—6 p.m.)

—FY 2000 budget

Martha Cehelsky,

Executive Officer.

[FR Doc. 00–18972 Filed 7–24–00; 10:10 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

Documents Containing Reporting or Recordkeeping Requirements: Office of Management and Budget (OMB) Review

AGENCY: U.S. Nuclear Regulatory Commission (NRC).

ACTION: Notice of the OMB review of information collection and solicitation of public comment.

SUMMARY: The NRC has recently submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

1. Type of submission, new, revision, or extension: Revision.

2. The title of the information collection: Final rule entitled ''Reporting Requirements for Nuclear Power Reactors and Independent Spent Fuel Storage Installations at Power Reactor Sites,'' 10 CFR 50 and 10 CFR 72.

3. The form number if applicable: NRC Forms 366, 366A, and 366B, ''Licensee Event Report (LER)'' and continuation pages.

4. How often the collection is required: Events involving reactors are reportable on occurrence.

5. Who will be required or asked to report: Holders of operating licenses for commercial nuclear power plants.

6. An estimate of the number of responses: 1220 telephone reports per year under 10 CFR 50.72(b) and 10 CFR 50.73(a) [a reduction of 180] and 1130 written reports per year under 10 CFR 50.73(a) [a reduction of 270] for a total reduction of 450 reports per year.

7. The estimated number of annual respondents: 104.

8. An estimate of the total number of hours needed annually to complete the requirement or request:

—A reduction of 270 hours for 180 fewer telephone notifications.
—A reduction of 13,500 hours for 270 fewer written LERs.
—In addition, there is a one-time implementation burden of about 20,800 hours (or 6,933 hours per year over three years) to revise reporting procedures and conduct training.
—The total burden reduction is 13,770 hours (not including the one-time implementation burden).

9. An indication of whether Section 3507(d), Pub. L. 104–13 applies: Applicable.

10. Abstract: The NRC is amending the event reporting requirements for nuclear power reactors in 10 CFR 50.72 and 50.73 to reduce or eliminate the unnecessary reporting burden associated with events of little or no safety significance. This final rule continues to provide the Commission with reporting of significant events where Commission action may be needed to maintain or improve reactor safety or to respond to heightened public concern. It also better aligns event reporting requirements with the type of information NRC needs to carry out its safety mission, including revising reporting requirements based on importance to risk and extending the required reporting times consistent with the time that the information is needed for prompt NRC action. NRC Form 366 is being modified to reflect the revised reporting sections contained in 10 CFR 50.73. Also, NUREG–1022, Revision 2, ''Event Reporting Guidelines, 10 CFR 50.72 and 50.73,'' is being made available concurrently with the final rule.

A copy of the supporting statement may be viewed free of charge at the NRC Public Document Room, 2120 L Street, NW (lower level), Washington, DC. OMB clearance packages are available at the NRC worldwide web site (*http://www.nrc.gov/NRC/PUBLIC/OMB/index.html*). The document will be available on the NRC home page site for 60 days after the signature date of this notice.

Comments and questions should be directed to the OMB reviewer by August 25, 2000. Erik Godwin, Office of Information and Regulatory Affairs (3150–0011 and –0104), NEOB–10202, Office of Management and Budget, Washington DC 20503.

Comments can also be submitted by telephone at (202) 395–3087.

The NRC Clearance Officer is Brenda Jo Shelton, 301–415–7233.

Dated at Rockville, Maryland, this 20th day of July 2000.

For the Nuclear Regulatory Commission.

Brenda Jo Shelton,

NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 00–18920 Filed 7–25–00; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Sunshine Meeting Notice

AGENCY HOLDING THE MEETING: Nuclear Regulatory Commission.

DATE: Weeks of July 24, 31, August 7, 14, 21, and 28, 2000.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

MATTERS TO BE CONSIDERED:

Week of July 24

Tuesday, July 25

3:25 p.m.
Affirmation Session (Public Meeting)
a. Final Rule to Amend 10 CFR Part 70, Domestic Licensing of Special Nuclear Material
b. Final Rule: 10 CFR Part 72—Clarification and Addition of Flexibility

Week of July 31—Tentative

There are no meetings scheduled for the Week of July 31.

Week of August 7—Tentative

There are no meetings scheduled for the Week of August 7.

Week of August 14—Tentative

Tuesday, August 15

9:25 a.m.
Affirmation Session (Public Meeting) (If necessary)
9:30 a.m.
Briefing on NRC International Activities (Public Meeting) (Contact: Ron Hauber, 301–415–2344)
This meeting will be webcast live at the Web address—*www.nrc.gov/live.html*

Week of August 21—Tentative

Monday, August 21

1:55 p.m.
Affirmation Session (Public Meeting) If necessary)

Week of August 28—Tentative

There are no meetings scheduled for the Week of August 28.

* THE SCHEDULE FOR COMMISSION MEETINGS IS SUBJECT TO CHANGE ON SHORT NOTICE. TO VERIFY THE STATUS OF MEETINGS CALL (RECORDING)—(301) 415–1292. CONTACT PERSON FOR MORE INFORMATION: Bill Hill (301) 415–1661.

* * * * *

ADDITIONAL INFORMATION: By a vote of 5–0 on March 31, the Commission determined pursuant to U.S.C. 552b(e) and § 9.107(a) of the Commission's rules that ''Discussion of Intragovernmental Issues'' (Closed Ex. 9) be held on March 31, and on less than one week's notice to the public.

* * * * *

The NRC Commission Meeting Schedule can be found on the Internet at: http://www.nrc.gov/SECY/smj/schedule.htm

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This notice is distributed by mail to several hundred subscribers; if you no longer wish to receive it, or would like to be added to it, please contact the Office of the Secretary, Attn: Operations Branch, Washington, DC 20555 (301–415–1661). In addition, distribution of this meeting notice over the Internet system is available. If you are interested in receiving this Commission meeting schedule electronically, please send an electronic message to wmh@nrc.gov or dkw@nrc.gov.

Dated: July 21, 2000.

William M. Hill, Jr.,

SECY Tracking Officer, Office of the Secretary.

[FR Doc. 00–19002 Filed 7–24–00; 12:44 pm]

BILLING CODE 7590–01–M

NUCLEAR REGULATORY COMMISSION

Biweekly Notice; Applications and Amendments to Facility Operating Licenses Involving No Significant Hazards Considerations

I. Background

Pursuant to Public Law 97–415, the U.S. Nuclear Regulatory Commission (the Commission or NRC staff) is publishing this regular biweekly notice. Public Law 97–415 revised section 189 of the Atomic Energy Act of 1954, as amended (the Act), to require the Commission to publish notice of any amendments issued, or proposed to be issued, under a new provision of section 189 of the Act. This provision grants the Commission the authority to issue and make immediately effective any amendment to an operating license upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This biweekly notice includes all notices of amendments issued, or proposed to be issued from July 1, 2000, through July 14, 2000. The last biweekly notice was published on July 12, 2000 (65 FR 43040).

Notice of Consideration of Issuance of Amendments to Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received before action is taken. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rules Review and Directives Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D22, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC. The filing of requests for a hearing and petitions for leave to intervene is discussed below.

By August 25, 2000, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Rules of Practice for Domestic Licensing Proceedings'' in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and electronically

from the ADAMS Public Library component on the NRC Web site, http://www.nrc.gov (the Electronic Reading Room). If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington DC, by the above date. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for a hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and electronically from the ADAMS Public Library component on the NRC Web site, *http://www.nrc.gov* (the Electronic Reading Room).

AmerGen Energy Company, LLC, Docket No. 50–461, Clinton Power Station, Unit 1, DeWitt County, Illinois

Date of amendment request: June 19, 2000 (U–603367).

Description of amendment request: The proposed amendment would allow some emergency diesel generator (EDG) Technical Specification surveillance requirements to be performed during plant operation instead of during plant shutdown as now required. These EDG surveillance tests include load rejection tests and the EDG 24-hour run test.

Basis for proposed no significant hazards consideration determination: The NRC staff has performed an analysis of the issue of no significant hazards consideration which is presented below:

1. No changes will be made to the design or operation of the emergency diesel generators (EDGs) and the plant electrical distribution system will normally be aligned to minimize perturbations from the EDG tests during power operation. Additionally, while some portions of some surveillance tests will result in a decrease in EDG availability during power operation, EDG availability is not significantly decreased. Therefore, the proposed change does not involve a significant increase in the probability or consequences of any accident previously evaluated.

2. No physical changes will be made to the plant. Electrical protective isolation devices will continue to act as before and Technical Specification system operability requirements are not being changed. Therefore, the proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. No changes will be made to the design or operation of the emergency diesel generators (EDGs) and the plant electrical distribution system will normally be aligned to minimize perturbations from the EDG tests during power operation. Additionally, while some portions of some surveillance tests will result in a decrease in EDG availability during power operation, EDG availability is not significantly decreased. Therefore, the proposed change does not significantly reduce a margin of safety.

Based on its initial review, the NRC staff finds that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the

amendment request involves no significant hazards consideration.

Attorney for licensee: Kevin P. Gallen, Morgan, Lewis & Bockius LLP, 1800 M Street, NW, Washington, DC 20036.

NRC Section Chief: Anthony J. Mendiola.

Consumers Energy Company, Docket No. 50–255, Palisades Plant, Van Buren County, Michigan

Date of amendment request: June 27, 2000.

Description of amendment request: The proposed amendment would revise Section 3.5.1, ''Safety Injection Tanks (SITs),'' of the Palisades Plant Improved Technical Specifications (ITS) as issued by the NRC on November 30, 1999 (Amendment No. 189), for implementation on or before October 31, 2000. Specifically, Condition A, which currently applies to ''One SIT inoperable due to boron concentration not within limits,'' would be expanded to include ''OR One SIT inoperable due to the inability to verify level or pressure.'' Required Action A.1, which currently states ''Restore boron concentration to within limits,'' would be changed to state ''Restore SIT to OPERABLE status.'' The specified Completion Time for the revised Required Action A.1 would remain as 72 hours. Condition B, which applies to ''One SIT inoperable for reasons other than Condition A,'' would be changed to specify a Completion Time of 24 hours (rather than the current 1 hour) to restore the SIT to OPERABLE status. The licensee also forwarded revised pages to the Palisades ITS Bases for these proposed changes. Additional changes proposed in the licensee's application dated June 27, 2000, (which address the Low-Pressure Safety Injection System) are outside the scope of this **Federal Register** (FR) notice and are addressed in a separate FR notice.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

[Operation in Accordance with the Proposed Amendment] Does Not Involve a Significant Increase in the Probability or Consequences of an Accident Previously Evaluated.

The Safety Injection Tanks (SITs) are passive components in the Emergency Core Cooling System. The SITs are not an accident initiator in any accident previously evaluated. Therefore, this change does not involve an increase in the probability of an accident previously evaluated.

SITs were designed to mitigate the consequences of Loss of Coolant Accidents (LOCA). These proposed changes do not affect any of the assumptions used in deterministic LOCA analysis. Hence the consequences of accidents previously evaluated do not change. In addition, in order to fully evaluate the effect of the SIT Allowable Outage Time (AOT) [a.k.a, ''Completion Time'] extension, probabilistic safety analysis (PSA) methods were utilized. The results of these analyses show no significant increase in the core damage frequency or large early release frequency. As a result, from a PSA standpoint, there would be no significant increase in the consequences of an accident previously evaluated. These analyses are detailed in CE NPSD–994, Combustion Engineering Owners Group ''Joint Applications Report for Safety Injection Tank AOT/STI [surveillance time interval] Extension.''

The changes pertaining to SIT inoperability based solely on instrumentation malfunction do not involve a significant increase in the consequences of an accident as evaluated and endorsed by the Nuclear Regulatory Commission (NRC) in NUREG–1366, ''Improvements to Technical Specifications Surveillance Requirements.'' This evaluation is applicable to the Palisades Plant.

Therefore, these changes do not involve an increase in the probability or consequences of any accident previously evaluated.

[Operation in Accordance with the Proposed Amendment] Does Not Create the Possibility of a New or Different Kind of Accident from any Previously Evaluated.

The proposed change does not change the design, configuration, or method of operation of the plant. The proposed configuration (one SIT out of service) is already allowed. Therefore, this change does not create the possibility of a new or different kind of accident from any previously evaluated.

[Operation in Accordance with the Proposed Amendment] Does Not Involve a Significant Reduction in the Margin of Safety.

The proposed changes do not affect the limiting conditions for operation or their bases that are used in the deterministic analyses to establish the margin of safety. The proposed configuration (one SIT out of service) is already allowed. PSA evaluations were used to evaluate these changes. The results of these analyses show no significant increase in the core damage frequency or large early release frequency. These evaluations are detailed in CE NPSD–994. Therefore, this change does not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Arunas T. Udrys, Esquire, Consumers Energy Company, 212 West Michigan Avenue, Jackson, Michigan 49201.

NRC Section Chief: Claudia M. Craig.

Consumers Energy Company, Docket No. 50–255, Palisades Plant, Van Buren County, Michigan

Date of amendment request: June 27, 2000.

Description of amendment request: The proposed amendment would revise Section 3.5.2, ''ECCS [Emergency Core Cooling System]—Operating,'' of the Palisades Plant Improved Technical Specifications (ITS) as issued by the NRC on November 30, 1999 (Amendment No. 189), for implementation on or before October 31, 2000. Specifically, the change would extend the Completion Time (a.k.a., allowed outage time or AOT) for a single low-pressure safety injection (LPSI) subsystem from 72 hours to 7 days. The change would apply for operating Modes 1, 2, and 3 with the primary coolant system temperature at or above 325 degrees F. The licensee also forwarded revised pages to the Palisades ITS Bases for the proposed change.

Additional changes proposed in the licensee's application dated June 27, 2000, (which address the safety injection tanks) are outside the scope of this **Federal Register** (FR) notice and are addressed in a separate FR notice.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

[Operation in Accordance with the Proposed Amendment] Does Not Involve a Significant Increase in the Probability or Consequences of an Accident Previously Evaluated.

The Low Pressure Safety Injection system (LPSI) is part of the Emergency Core Cooling System. LPSI components are not accident initiators in any accident previously evaluated. Therefore, this change does not involve an increase in the probability of an accident previously evaluated.

The LPSI system is primarily designed to mitigate the consequences of a large Loss of Coolant Accident (LOCA). These proposed changes do not affect any of the assumptions used in deterministic LOCA analysis. Hence the consequences of accidents previously evaluated do not change. In addition, in order to fully evaluate the effect of the LPSI AOT extension, probabilistic safety analysis (PSA) methods were utilized. The results of these analyses show no significant increase in the core damage frequency. As a result, from a PSA standpoint, there would be no significant increase in the consequences of an accident previously evaluated. These analyses are detailed in CE NPSD–995, Combustion Engineering Owners Group ''Joint Applications Report for Low Pressure Safety Injection System AOT Extension.''

Therefore, these changes do not involve an increase in the probability or consequences of any accident previously evaluated.

[Operation in Accordance with the Proposed Amendment] Does Not Create the Possibility of a New or Different Kind of Accident from any Previously Evaluated.

The proposed changes do not change the design, configuration, or method of operation of the plant. No new equipment is being introduced, and installed equipment is not being operated in a new or different manner. There is no change being made to the parameters within which the plant is operated, and the setpoints at which protective or mitigative actions are initiated are unaffected by this change. No alteration in the procedures which ensure the plant remains within analyzed limits is being proposed, and no change is being made to the procedures relied upon to respond to an off-normal event. As such, no new failure modes are being introduced. The proposed changes do not alter assumptions made in the safety analysis and licensing basis. Therefore, these changes do not create the possibility of a new or different kind of accident from any previously evaluated.

[Operation in Accordance with the Proposed Amendment] Does Not Involve a Significant Reduction in the Margin of Safety.

The proposed changes do not affect the limiting conditions for operation or their bases used in the deterministic analyses to establish the margin of safety. PSA evaluations were used to evaluate these changes. These evaluations demonstrate that the changes are either risk neutral or risk beneficial. These evaluations are detailed in CE NPSD–995. The margin of safety is established through equipment design, operating parameters, and the setpoints at which automatic actions are initiated. None of these are adversely impacted by the proposed changes. Therefore, this change does not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Arunas T. Udrys, Esquire, Consumers Energy Company, 212 West Michigan Avenue, Jackson, Michigan 49201.

NRC Section Chief: Claudia M. Craig.

Duke Energy Corporation, Docket Nos. 50–269, 50–270, and 50–287, Oconee Nuclear Station, Units 1, 2, and 3, Oconee County, South Carolina

Date of amendment request: June 21, 2000.

Description of amendment request: The proposed amendments would modify the Emergency Feedwater System (EFW) section of the Updated Final Safety Analysis Report.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated:

No. The EFW System is utilized to mitigate the consequences of an accident. Failure of the EFW System is not a precursor to any accident evaluated in the UFSAR [Updated Final Safety Analysis Report].

The UFSAR change proposes additional exceptions to the ability of the EFW system to mitigate specific events coupled with a single failure. These exceptions are appropriate, because diverse systems (*i.e.*, the SSF [standby shutdown facility] ASW [auxiliary service water] System or EFW System from another unit) are available to mitigate the defined transient/accident and the probability of the defined transient/accident occurring is small.

The proposed UFSAR changes do not involve any adverse impact on containment integrity, radiological release pathways, fuel design, filtration systems, main steam relief valve setpoints, or radwaste systems. In addition, it does not create any new radiological release pathways.

Therefore, it is concluded that the proposed changes will not significantly increase the probability or consequences of an accident previously evaluated.

(2) Create the possibility of a new or different kind of accident from any kind of accident previously evaluated:

No. The EFW System is utilized to mitigate the consequences of an accident. Failure of the EFW System is not a precursor to any accident evaluated in the UFSAR. The proposed UFSAR changes do not physically effect the plant, nor do they increase the risk of a unit trip or reactivity excursion. This proposed change does not introduce any new accident precursors. Therefore, these proposed changes do not create the possibility of any new or different kind of accident.

(3) Involve a significant reduction in a margin of safety.

No. A Probabilistic Risk Assessment (PRA) evaluation of the single failures identified in a failure modes and effects analysis performed for the EFW System concluded that there are no single active failures that contribute significantly to core damage frequency.

The UFSAR change proposes additional exceptions to the ability of the EFW system to mitigate specific events coupled with a single failure. These exceptions are appropriate, because the probability of the defined transient/accident occurring is small, and diverse systems (i.e., the SSF ASW System or EFW System from another unit) are available to mitigate the defined transient/accident.

The proposed UFSAR changes do not involve: (1) a physical alteration of the plant; (2) the installation of new or different equipment; or (3) any impact on the fission product barriers or safety limits.

Therefore, it is concluded that the proposed UFSAR changes will not result in a significant decrease in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Anne W. Cottington, Winston and Strawn, 1200 17th Street, NW., Washington, DC 20005.

NRC Section Chief: Richard L. Emch, Jr.

Entergy Operations, Inc., Docket No. 50–368, Arkansas Nuclear One, Unit 2 (ANO–2), Pope County, Arkansas

Date of amendment request: June 29, 2000.

Description of amendment request: The current Arkansas Nuclear One, Unit 2 (ANO–2) Technical Specification (TS) 3.6.2.3 states: ''Two independent containment cooling groups shall be OPERABLE with at least one operational cooling unit in each group.'' The proposed change will modify this wording as follows: ''Two independent containment cooling groups shall be OPERABLE with two operational cooling units in each group.'' In addition, the proposed amendment would change the surveillance requirements contained in TS 4.6.2.3.a. At the present time, TS 4.6.2.3.a. would allow a containment cooler group with a minimum service water flow rate of 1250 gpm to be declared operable if one of the two cooling units and associated fan is operable. As a result of this proposed change, the surveillance requirements will be modified to require both cooling units per group to be operable for the containment cooler group to be operable.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

Criterion 1—Does Not Involve a Significant Increase in the Probability or Consequences of an Accident Previously Evaluated.

The containment cooling units do not have the ability to cause an accident, however, they do serve to mitigate containment accident conditions. The new MSLB [Main Steam Line Break] and LOCA [Loss of Coolant Accident] analyses contain the same assumptions relating to containment heat removal as the original analyses, i.e., at least one containment building cooling unit in conjunction with one train of CSS [containment spray system] is adequate for containment heat removal. During 2R14 [Unit 2, 14th refueling outage] the containment

coolers will be modified by adjusting the fan pitch, which will reduce fan flow as well as the post DBA [Design Basis Accident] motor horsepower. To offset this lower containment cooler fan airflow rate, two cooling units per group will be required. The resulting heat removal capacity with two containment cooling units in service at the new blade pitch position is greater than the required heat removal assumed in the LOCA and MSLB analyses.

Therefore, this change does not involve a significant increase in the probability or consequences of any accident previously evaluated.

Criterion 2—Does Not Create the Possibility of a New or Different Kind of Accident from any Previously Evaluated.

Assuming the single failure of a loss of one group of components, the remaining group with two cooling units will continue to be available. The modification to the fan blade pitch will result in a lower air flow rate through each containment cooler. However, the requirement for two units per group to be operable provides adequate heat removal capacity for containment uprate conditions. Therefore, the heat removal capacity assumed in the Containment Uprate analysis remain valid. The previous ability to credit either cooler unit provided additional design margin whereby the required redundancy is still provided by this change.

Therefore, this change does not create the possibility of a new or different kind of accident from any previously evaluated.

Criterion 3—Does Not Involve a Significant Reduction in the Margin of Safety.

The Containment Cooling System ensures that (1) the containment air temperature will be maintained within limits during normal operation, and (2) adequate heat removal capacity is available when operated in conjunction with the containment spray systems during post-LOCA conditions. The modification planned during 2R14 will result in a lower air flow rate through each cooling unit and a corresponding reduction in heat transfer capability of each cooling unit. However, the safety margin is still maintained by requiring both cooler units to be operable and thus providing adequate heat removal capacity to remain below the containment design pressure.

Therefore, this change does not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Nicholas S. Reynolds, Esquire, Winston and Strawn, 1400 L Street, NW., Washington, DC 20005–3502.

NRC Section Chief: Robert A. Gramm.

IES Utilities Inc., Docket No. 50–331, Duane Arnold Energy Center, Linn County, Iowa

Date of amendment request: June 9, 2000.

Description of amendment request: The proposed amendment would reduce the bypass valve (BV) cycling frequency of SR 3.7.7.1 from 31 days to 92 days. This will make the test frequency for the BVs consistent with the testing frequency for the other Main Turbine Valves (e.g. Main Turbine Control, Stop, and Combined Intermediate Valves). The 92-day frequency is also consistent with the typical testing frequency for stroking safety-related valves under TS 5.5.6, In-Service Testing Program.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below.

1. The proposed amendment will not involve a significant increase in the probability or consequences of an accident previously evaluated.

The current TS SR 3.7.7.1 requires that the BVs be cycled once every 31 days to demonstrate that the BVs are mechanically OPERABLE (free to move). DAEC in-house operating experience has shown that the BVs have reliable equipment performance in that they consistently pass the valve cycling test at both the 31-day and 92-day frequency. A test frequency of 92 days is sufficient to ensure the reliability of the BVs. The DAEC is analyzed for certain transient events with the assumption that the MTBS is out-of-service (*e.g.* turbine trips, generator load rejects, feedwater flow controller failure at maximum demand). Continued plant operation is allowed in cases of inoperable MTBS provided the more restrictive MCPR limit is applied (LCO 3.7.7). Margin to the MCPR Safety Limit is bounded by the analyzed failure of the MTBS. Should the BV fail a cycling test, the TS required actions would be taken accordingly. Therefore, this proposed amendment will not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The proposed amendment will not create the possibility of a new or different kind of accident from any accident previously evaluated.

There are no modifications made to the MTBS (including BVs) or system operations in this proposed TS amendment. The only change is the BV's cycling frequency from 31 days to 92 days. The proposed TS amendment does not alter the OPERABILITY requirements or performance characteristics of the MTBS. The reduced BV cycling frequency reduces the need for reactivity changes and pressure perturbations on the reactor. This proposed amendment will not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed amendment will not involve a significant reduction in a margin of safety.

The only change by this proposed TS amendment is the frequency of the BV's cycling test from 31 days to 92 days. The OPERABILITY requirement and functional characteristics of the MTBS remain unchanged. DAEC in-house operating experience has demonstrated that a 92-day test frequency provides reasonable assurance that the BVs remain OPERABLE. The BV's response times are used in determining the effect on the MCPR. The surveillance tests that ensure the MTBS meets the system's automatic actuation requirements (SR 3.7.7.2) and response time limits (SR 3.7.7.3) are not affected by this proposed TS amendment and will continue to be performed at the current TS frequency. Therefore, this proposed amendment will not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Al Gutterman, Morgan, Lewis & Bockius, 1800 M Street, NW., Washington, DC 20036–5869.

NRC Section Chief: Claudia M. Craig.

IES Utilities Inc., Docket No. 50–331, Duane Arnold Energy Center, Linn County, Iowa

Date of amendment request: June 14, 2000.

Description of amendment request: Alliant Energy Corporation (AEC) plans to merge and consolidate another utility it owns, Interstate Power Company (IPC), with IES Utilities Inc., effective January 1, 2001. The name of the surviving corporation, IES, would be changed to Interstate Power and Light Company (IP&L).

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed amendment will not involve a significant increase in the probability or consequences of an accident previously evaluated.

No physical or operational changes to the DAEC will result from changing the corporate name. The DAEC will continue to be operated in the same manner with the same organization. Therefore, the proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The proposed amendment will not create the possibility of a new or different

kind of accident from any accident previously evaluated.

No physical or operational changes to the DAEC will result from changing the corporate name. The DAEC will continue to be operated in the same manner with the same organization. Therefore, the proposed amendment will not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed amendment will not involve a significant reduction in a margin of safety.

No physical or operational changes to the DAEC will result from changing the corporate name. The DAEC will continue to be operated in the same manner with the same organization. Therefore, the proposed amendment will not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Al Gutterman, Morgan, Lewis & Bockius, 1800 M Street, NW., Washington, DC 20036–5869.

NRC Section Chief: Claudia M. Craig.

Northeast Nuclear Energy Company, et al., Docket No. 50–245, Millstone Nuclear Power Station, Unit No. 1, New London County, Connecticut

Date of amendment request: June 6, 2000.

Description of amendment request: The proposed amendment would revise the Millstone Nuclear Power Station, Unit No. 1 license to modify or remove license conditions and confirmatory orders to reflect the permanently defueled condition of the unit. Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated.

The purpose of the proposed changes is to revise the Millstone Unit No. 1 Operating License to only address conditions and requirements that are germane to the permanently shutdown and defueled condition. Since Millstone Unit No. 1 has permanently ceased operation and will be maintained in a defueled condition, many provisions of the license related to the operation of the plant are no longer appropriate. Elimination of the unnecessary requirements and statements allows the plant staff to focus on those requirements which continue to be appropriate to the existing plant conditions. The proposed changes do not affect the only design basis accident that continues to be applicable (i.e., the fuel handling accident). Therefore, the changes do not increase the probability or consequences of any previously evaluated accident.

2. Create the possibility of a new or different kind of accident from any previously evaluated.

The purpose of the proposed changes is to revise the Millstone Unit No. 1 Operating License to only address conditions and requirements that are germane to the permanently shutdown and defueled condition. Since Millstone Unit No. 1 has permanently ceased operation and will be maintained in a defueled condition, many provisions of the license related to the operation of the plant are no longer appropriate. Elimination of the unnecessary requirements and statements allows the plant staff to focus on those requirements which continue to be appropriate to the existing plant conditions. The proposed changes do not affect storage of spent fuel. Therefore, the proposed changes do not create a different kind of accident from those previously analyzed.

3. Involve a significant reduction in a margin of safety.

The purpose of the proposed changes is to revise the Millstone Unit No. 1 Operating License to only address conditions and requirements that are germane to the permanently shutdown and defueled condition. Since Millstone Unit No. 1 has permanently ceased operation and will be maintained in a defueled condition, many provisions of the license related to the operation of the plant are no longer appropriate. Elimination of the unnecessary requirements and statements allows the plant staff to focus on those requirements which continue to be appropriate to the existing plant conditions. The proposed changes do not affect storage of spent fuel. Therefore, the proposed changes do not involve a reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Lillian M. Cuoco, Esq., Senior Nuclear Counsel, Northeast Utilities Service Company, P.O. Box 270, Hartford, Connecticut.

NRC Section Chief: Michael T. Masnik

Northeast Nuclear Energy Company, et al., Docket Nos. 50–336, Millstone Nuclear Power Station, Unit No. 2, New London County, Connecticut

Date of amendment request: June 28, 2000.

Description of amendment request: The proposed changes to the Technical Specifications (TSs) are associated with Section 3/4.7.6, ''Control Room Emergency Ventilation System.'' Specifically, TS 3.7.6.1 will be revised to add a footnote that the Control Room boundary can be opened intermittently under administrative control, and add a new Modes 1 through 4 action requirement that will allow 24 hours to restore the Control Room boundary. In addition, various editorial changes associated with action requirement format and letter designations are proposed.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated.

The action requirements for the Control Room Emergency Ventilation System have been changed to address the impact a loss of boundary integrity has on the associated system. The proposed changes to the action requirements will not cause an accident. Allowing the Control Room boundary to be opened intermittently under administrative controls will have no adverse impact on the consequences of the design basis accidents since the administrative controls will be able to rapidly restore boundary integrity when required. Allowing 24 hours to restore the Control Room boundary in Modes 1 through 4 could result in an increase in the consequences of a design basis accident to the Control Room personnel. However, considering the low probability of a design basis accident occurring during this time, the proposed allowed outage time is reasonable to allow the boundary integrity to be restored before requiring a plant shutdown.

These changes are consistent with Technical Specification 3.6.5.2, ''Containment Systems—Enclosure Building,'' which allows normal entry and egress through associated access openings (Surveillance Requirement 4.6.5.2.1) and 24 hours to restore Enclosure Building integrity, and with generic industry guidance (NUREG–1432, Technical Specification 3.7.11, TSTF–287, Rev. 5).

The proposed changes to address format issues will not result in any technical changes to the current requirements.

The proposed Technical Specification changes will have no adverse effect on plant operation or the operation of accident mitigation equipment, and will not significantly impact the availability of accident mitigation equipment. The plant response to the design basis accidents will not change. In addition, the equipment covered by this specification is not an accident initiator and can not cause an accident. Therefore, the proposed changes will not result in a significant increase in the probability or consequences of an accident previously evaluated.

2. Create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed Technical Specification changes do not impact any system or

component which could cause an accident. The proposed changes will not alter the plant configuration (no new or different type of equipment will be installed) or require any unusual operator actions. The proposed changes will not alter the way any structure, system, or component functions, and will not significantly alter the manner in which the plant is operated. There will be no adverse effect on plant operation or accident mitigation equipment. The proposed changes do not introduce any new failure modes. Also, the response of the plant and the operators following an accident will not be significantly different as a result of these changes. In addition, the accident mitigation equipment affected by the proposed changes is not an accident initiator. Therefore, the proposed changes will not create the possibility of a new or different kind of accident from any previously analyzed.

3. Involve a significant reduction in a margin of safety.

The proposed changes to Technical Specification 3.7.6.1 are consistent with Technical Specification 3.6.5.2 which allows normal entry and egress through associated access openings (SR 4.6.5.2.1) and 24 hours to restore Enclosure Building integrity, and with generic industry guidance (NUREG–1432, Technical Specification 3.7.11, TSTF–287, Rev. 5). If the Control Room boundary is not operable, the proposed action requirements will require timely restoration of the boundary or the plant will be placed in a configuration where there is no adverse impact associated with the loss of Control Room boundary integrity. The proposed allowed outage time provides a reasonable time for repairs before requiring a plant shutdown, and reflects the low probability of an event occurring while the boundary is inoperable. The proposed shutdown times, which are consistent with times already contained in the Millstone Unit No. 2 Technical Specifications and with generic industry guidance (NUREG–1432), will allow an orderly shutdown to be performed.

The proposed changes to address format issues will not result in any technical changes to the current requirements. These proposed changes will not adversely impact any of the design basis accidents or the associated accident mitigation equipment.

The proposed changes will have no adverse effect on plant operation or equipment important to safety. The plant response to the design basis accidents will not change and the accident mitigation equipment will continue to function as assumed in the design basis accident analyses. Therefore, there will be no significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Lillian M. Cuoco, Esq., Senior Nuclear Counsel, Northeast Utilities Service Company, P.O. Box 270, Hartford, Connecticut.

NRC Section Chief: James W. Clifford.

Northeast Nuclear Energy Company, et al., Docket Nos. 50–336 and 50–423, Millstone Nuclear Power Station, Unit Nos. 2 and 3, New London County, Connecticut

Date of amendment request: June 26, 2000.

Description of amendment request: The proposed changes to the Technical Specifications (TSs) are associated with the Reactivity Control Systems section. Specifically, the surveillance requirements associated with the frequency for determining the operability of each rod not fully inserted in the core will be revised from once every 31 days to once every 92 days for Units 2 and 3. In addition, the surveillance requirement associated with the frequency of testing the Control Element Assembly Deviation Circuit will be revised from once every 31 days to once every 92 days for Unit 2.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed change to Millstone Unit Nos. 2 and 3 Specification 4.1.3.1.2 will revise the frequency for determining the operability of each rod that is not fully inserted in the core from once every 31 days to once every 92 days. The proposed change in the frequency does not change any of the assumptions used in the safety analyses. On the other hand, the decrease in surveillance frequency will reduce the potential for reactor trips and the unnecessary challenges to the safety systems associated with the performance of the surveillance. Additionally, NNECO [Northeast Nuclear Energy Company] performed Millstone Unit Nos. 2 and 3 specific evaluations of the effect of changing the frequency of rod movement test from 31 days to 92 days on Core Damage Frequency (CDF). These evaluations concluded that the change in test frequency from 31 days to 92 days has no adverse impact on CDF (the estimated potential risk associated with tripping the reactor as a result of this high risk surveillance is about 1.31E–8/yr for Millstone Unit No. 2 and 4.28E–8/yr for Millstone Unit No. 3) and is therefore acceptable. Therefore, this change will not significantly increase the probability or consequences of an accident previously evaluated.

The proposed change in the frequency of testing the CEA Deviation Circuit in Millstone Unit No. 2 Specification 4.1.3.1.3 from once every 31 days to once every 92 days does not change any of the assumptions used in the safety analysis. On the other hand, the decrease in surveillance frequency will reduce the reactor trips and the unnecessary challenges to the safety systems associated with the performance of the surveillance. Additionally, the Deviation Circuit has excellent testing history and increasing the surveillance interval from 31 days to 92 days will have no adverse effect on its overall reliability. The Nuclear Regulatory Commission approved this increase in surveillance interval as part of TSTF [Technical Specifications Task Force] -127.[ ] Therefore, this change will not significantly increase the probability or consequences of an accident previously evaluated.

2. Create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed changes will not alter [the] configuration of the plants (no new or different type of equipment will be installed) or require any new or unusual operator actions. They do not alter the way any structure, system, or component functions and do not alter the manner in which the plants are operated. Therefore, the proposed changes will not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Involve a significant reduction in a margin of safety.

The proposed changes in the surveillance frequency do not change any of the assumptions used in the safety analyses. Additionally, NNECO performed Millstone Unit Nos. 2 and 3 specific evaluations of the effect of changing the frequency of rod movement test from 31 days to 92 days on CDF. These evaluations concluded that the change in test frequency from 31 days to 92 days has no adverse impact on CDF and is therefore acceptable. Therefore, the proposed changes will not result in a significant reduction in a margin of safety.

As described above, this License Amendment Request does not involve a significant increase in the probability of an accident previously evaluated, does not involve a significant increase in the consequences of an accident previously evaluated, does not create the possibility of a new or different kind of accident from any accident previously evaluated, and does not result in a significant reduction in a margin of safety. Therefore, NNECO has concluded that the proposed changes do not involve an SHC [Significant Hazards Consideration].

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Lillian M. Cuoco, Esq., Senior Nuclear Counsel, Northeast Utilities Service Company, P.O. Box 270, Hartford, Connecticut.

NRC Section Chief: James W. Clifford.

PECO Energy Company, Public Service Electric and Gas Company, Delmarva Power and Light Company, and Atlantic City Electric Company, Docket No. 50–277, Peach Bottom Atomic Power Station, Unit No. 2, York County, Pennsylvania

Date of application for amendment: June 14, 2000.

Description of amendment request: The licensee requests that the Peach Bottom Atomic Power Station (PBAPS), Unit 2, Technical Specifications (TS) contained in Appendix A to the Operating License be amended to: (1) Revise TS 2.1.1.2 to reflect changes in the Safety Limit Minimum Critical Power Ratios (SLMCPRs) due to the cycle-specific analysis performed by Global Nuclear Fuel (formerly General Electric Nuclear Energy (GENE)) for PBAPS, Unit 2, Cycle 14, which includes the use of the GE–14 product line, (2) delete the cycle-specific footnote for the SLMCPRs contained in TS 2.1.1.2 (''Reactor Core SLs''), and (3) update a reference contained in TS 5.6.5.b.2 (''Core Operating Limits Report'') which documents an analytical method used to determine the core operating limits. Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

(1) The proposed TS changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

The derivation of the cycle specific SLMCPRs for incorporation into the TS, and its use to determine cycle specific thermal limits, has been performed using the methodology discussed in ''General Electric Standard Application for Reactor Fuel,'' NEDE–24011–P–A–13, and U.S. Supplement, NEDE–24011–P–A–13–US, August 1996, and Amendment 25. Amendment 25 was approved by the NRC in a March 11, 1999 safety evaluation report.

The basis of the SLMCPR calculation is to ensure that greater than 99.9% of all fuel rods in the core avoid transition boiling if the limit is not violated. The new SLMCPRs preserve the existing margin to transition boiling. The GE–14 fuel is in compliance with Amendment 22 to ''General Electric Standard Application for Reactor Fuel,'' NEDE–24011–P–A–13, and U. S. Supplement, NEDE–24011–P–A–13–US, August, 1996 (GESTAR–II), which provides the fuel licensing acceptance criteria. The probability of fuel damage will not be increased as a result of these changes. Additionally, as a result of the use of the GE–14 product line, no dose calculations are being adversely impacted. Therefore, the proposed TS changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

In addition to the change to the SLMCPRs, the footnote to TS 2.1.1.2 is being deleted. The footnote associated with TS 2.1.1.2 was originally included to ensure that the SLMCPR value was only applicable for the identified cycle. Since that time, Amendment 25 has been approved. Therefore, this footnote is no longer necessary. The footnote was for information only, and has no impact on the design or operation of the plant. A similar change was previously approved for PBAPS, Unit 3, as discussed in the NRC safety evaluation (Amendment No. 233), dated October 5, 1999. The deletion of the footnote associated with TS 2.1.1.2 is an administrative change that does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The reference to the Revision 1 ARTS/MELLLA analysis contained in TS 5.6.5.b.2 is being updated to a Revision 2 analysis, to reflect changes that were previously approved by the NRC as documented in the safety evaluation report dated August 10, 1994 (Amendment No. 192 for PBAPS, Unit 2). This is an administrative change which will ensure that the references contained in the PBAPS, Unit 2 Technical Specifications are accurate and consistent with other licensing documents. No technical changes are occurring which have not been previously approved by the NRC. A similar change was previously approved for PBAPS, Unit 3, as discussed in the NRC safety evaluation (Amendment No. 233), dated October 5, 1999. Therefore, this change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The proposed TS changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

The SLMCPR is a TS numerical value, calculated to ensure that transition boiling does not occur in 99.9% of all fuel rods in the core if the limit is not violated. The new SLMCPRs are calculated using NRC approved methodology discussed in ''General Electric Standard Application for Reactor Fuel,'' NEDE–24011–P–A–13 (GESTAR–II), and U.S. Supplement, NEDE–24011–P–A–13–US, August 1996, and Amendment 25. Additionally, the GE–14 fuel is in compliance with Amendment 22 to ''General Electric Standard Application for Reactor Fuel,'' NEDE–24011–P–A–13, and U.S. Supplement, NEDE–24011–P–A–13–US, August, 1996 (GESTAR–II), which provides the fuel licensing acceptance criteria. The SLMCPR is not an accident initiator, and its revision will not create the possibility of a new or different kind of accident from any accident previously evaluated.

Additionally, this proposed change will delete footnotes contained in TS 2.1.1.2 as the result of the NRC approval of analysis associated with Amendment 25. The proposed change also updates the ARTS/MELLLA analysis reference contained in TS 5.6.5.b.2. This revision contains information which was previously approved by the NRC. Similar changes were previously approved for PBAPS, Unit 3, as discussed in the NRC safety evaluation (Amendment No. 233), dated October 5, 1999. Therefore, the deletion of the footnote associated with TS 2.1.1.2, and the updating of the reference contained in TS 5.6.5.b.2 are administrative changes that do not create the possibility of a new or different kind of accident from any previously evaluated.

3. The proposed TS changes do not involve a significant reduction in a margin of safety.

There is no significant reduction in the margin of safety previously approved by the NRC as a result of: (1) The proposed changes to the SLMCPRs, which includes the use of GE–14 fuel, (2) the proposed change that will delete the footnote to TS 2.1.1.2, and (3) updating the ARTS/MELLLA analysis reference contained in TS 5.6.5.b.2. The new SLMCPRs are calculated using methodology discussed in ''General Electric Standard Application for Reactor Fuel,'' NEDE–24011–P–A–13 (GESTAR–II), and U.S. Supplement, NEDE–24011–P–A–13–US, August 1996, and Amendment 25. The SLMCPRs ensure that greater than 99.9% of all fuel rods in the core will avoid transition boiling if the limit is not violated when all uncertainties are considered, thereby preserving the fuel cladding integrity. Therefore, the proposed TS changes will not involve a significant reduction in the margin of safety previously approved by the NRC.

Additionally, the proposed changes that delete the footnote to TS 2.1.1.2, and update the revision to the ARTS/MELLLA analysis reference contained in TS 5.6.5.b.2, are administrative changes that will not significantly reduce the margin of safety previously approved by the NRC.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for Licensee: J. W. Durham, Sr., Esquire, Sr. V.P. and General Counsel, PECO Energy Company, 2301 Market Street, Philadelphia, PA 19101

NRC Section Chief: James W. Clifford

Power Authority of The State of New York, Docket No. 50–286, Indian Point Nuclear Generating Unit No. 3, Westchester County, New York

Date of amendment request: February 4, 2000.

Description of amendment request: The proposed amendment to the Indian Point 3 Technical Specifications (TSs) proposes to revise the main steam line break (MSLB) analysis to correct the assumption for non-isolable feedwater and also to revise assumptions regarding boron in the safety injection piping and assumptions regarding shutdown margin.

Basis for proposed no significant hazards consideration determination:

As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

Operation of the Indian Point 3 in accordance with the proposed amendment would not involve a significant hazards consideration as defined in 10 CFR 50.92 since it would not:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed changes include revised assumptions in the TS to correct non-conservative TS and revised TS with respect to the peak calculated containment pressure for a postulated MSLB. The changes take credit for existing boron in the SI [Safety Injection] system and existing shutdown margin, perform surveillance to verify the boron concentration, and revise the containment testing program to reflect a minimum test pressure that must bound the peak calculated pressure. These changes cannot increase the probability of an accident previously evaluated since they do not change plant operations and are not related to accident initiators. These changes will not increase the consequences of an accident previously evaluated since they do not change system operation to mitigate any accident and the use of a minimum containment test pressure ensures the TS required testing bounds the calculated peak calculated [sic] pressure.

2. Create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed changes include revised assumptions in the TS to correct non-conservative TS and revised TS with respect to the peak calculated pressure. The changes take credit for existing boron in the SI system and existing shutdown margin, perform surveillance to verify the boron, and revise the containment testing program to reflect a minimum test pressure that must bound the peak calculated pressure. These changes do not physically alter the plant since they take credit for existing plant conditions and the physical act of sampling meets system design and Technical Specification requirements. Therefore, these changes do not create the possibility of a new or different type of accident from those previously evaluated.

3. Involve a significant reduction in a margin of safety.

The proposed changes include revised assumptions in the TS to correct non-conservative TS and revised TS with respect to the peak calculated pressure. The changes take credit for existing boron in the SI system and existing shutdown margin, perform surveillance to verify the boron, and revise the containment testing program to reflect a minimum test pressure that must bound the peak calculated pressure. These changes do not involve a significant reduction in the margin of safety since the credited boron is part of the existing system design that has not been credited since the BIT [Boron Injection Tank] tank retirement. The credited shutdown margin is typical of the excess shutdown margin resulting from cycle specific core design.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards considerations. Attorney for licensee: Mr. David E. Blabey, 10 Columbus Circle, New York, New York 10019.

NRC Section Chief: Marsha Gamberoni, Acting.

Public Service Electric & Gas Company, Docket Nos. 50–272 and 50–311, Salem Nuclear Generating Station, Units Nos. 1 and 2, Salem County, New Jersey

Date of amendment request: March 13, 2000.

Description of amendment request: The proposed amendments would revise Technical Specification (TS) Table 3.3–6, ''Radiation Monitoring Instrumentation,'' to change the Containment Gaseous Activity Monitor (R12A) alarm/trip setpoint for the Containment Purge and Pressure Relief system isolation for Mode 6 (Refueling) operation. Specifically, the existing setpoint of less than or equal to two times background would be changed to ''Set at less than or equal to 50% of the 10 CFR [Part] 20 concentration limits for gaseous effluents released to unrestricted areas.'' The proposed amendment will also specify an upper setpoint limit that is not presently required by the existing TS requirement. In addition, the associated TS Bases section would be revised to address the proposed change.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration. The NRC staff has reviewed the licensee's analysis against the standards of 10 CFR 50.92(c). The NRC staff's review is presented below:

1. The proposed change will not involve a significant increase in the probability or consequences of an accident previously evaluated.

During Mode 6 operation, the Containment Gaseous Activity Monitor R12A serves to monitor the gaseous activity concentration in the containment atmosphere, and provides an alarm and isolation of the Containment Purge and Pressure Relief system in response to high gaseous activity that would result from a Fuel Handling Accident inside containment. As such, the Containment Gaseous Activity Monitor is not considered as an initiator of any accident previously evaluated. Therefore, the proposed change would not affect the probability of an accident previously evaluated.

The proposed setpoint would allow an alarm/trip setpoint to be higher than the current TS requirements. As a result, it would be expected that the consequences of an accident previously evaluated could possibly increase. However, the proposed setpoint value would isolate the Containment Purge and Pressure Relief system prior to reaching the 10 CFR Part 20 concentration limits for gaseous effluents released to unrestricted areas. The 10 CFR Part 20 limits are equivalent to the radio-nuclide concentrations which, if inhaled or ingested continuously over the course of a year, would produce at total effective dose equivalent of 0.05 rem (50 millirem or 0.5 millisieverts). These restrictions are intended to minimize and limit the amount of dose received by individual members of the public during normal operations, and are considerably more restrictive than the 10 CFR Part 100 limits. The proposed change would not be considered a significant increase in the consequences of an accident previously evaluated because the revised setpoint would isolate the appropriate release path and maintain doses well below 10 CFR Part 100 limits. Therefore, the proposed change will not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The proposed change will not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed change to the Containment Gaseous Activity Monitor alarm/trip setpoint will not create any new accident causal mechanisms. Plant operation will not be affected by the proposed amendments and no new failure modes will be created. Thus, the proposed change will not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed change will not involve a significant reduction in a margin of safety.

An evaluation of a fuel handling accident inside containment has been performed by the licensee that demonstrates that the limits of 10 CFR Part 100 would not be exceeded even though no containment isolation was assumed. The analysis assumed that all airborne activity reaching the containment atmosphere would exhaust to the environment within two hours (no containment isolation) and concluded that the exclusion area boundary doses were well within the limits of 10 CFR Part 100. The analysis

also demonstrated that the control room doses following the fuel handling accident inside containment would be within General Design Criterion 19 limits. Therefore, the changes proposed by the licensee will not involve a significant reduction in a margin of safety.

Based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Jeffrie J. Keenan, Esquire, Nuclear Business Unit—N21, P.O. Box 236, Hancocks Bridge, NJ 08038.

NRC Section Chief: James W. Clifford.

Public Service Electric & Gas Company, Docket Nos. 50–272 and 50–311, Salem Nuclear Generating Station, Units Nos. 1 and 2, Salem County, New Jersey

Date of amendment request: May 31, 2000.

Description of amendment request: The proposed amendment would establish new charcoal filter testing requirements for the Auxiliary Building Ventilation (ABV) System, the Control Room Envelope Air Conditioning System (CREACS), and the Fuel Handling Ventilation (FHV) System consistent with the requirements delineated in Generic Letter 99–02, ''Laboratory Testing of Nuclear-Grade Activated Charcoal,'' dated June 3, 1999. Specifically, the surveillance requirements associated with Limiting Conditions for Operation (LCOs) 3.7.6.1, 3.7.7.1, and 3.9.12 would specify American Society for Testing and Materials (ASTM) D3803–1989, ''Standard Test Method for Nuclear-Grade Activated Carbon,'' as the testing methodology.

The May 31, 2000, amendment request would replace Public Service Electric and Gas (PSE&G) Company's original November 24, 1999, application to change Salem Units 1 and 2 Technical Specifications (TS) surveillance requirements associated with the laboratory testing of charcoal samples for the ABV, CREACS, and FHV systems. Additional information associated with the November 24, 1999, submittal was provided on February 10, 2000. However, PSE&G has requested that the November 24, 1999, application be withdrawn.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed TS change does not involve any physical changes to plant structures, systems or components (SSC). The FHV, CREACS and ABV systems will continue to function as designed. The FHV, CREACS and ABV systems are designed to mitigate the consequences of an accident, and therefore, cannot contribute to the initiation of any accident. The proposed TS surveillance requirement changes implement testing methods that more appropriately demonstrate charcoal filter capability and establish acceptance criteria, which ensure that Salem's design basis assumptions are appropriately met. In addition, this proposed TS change will not increase the probability of occurrence of a malfunction of any plant equipment important to safety, since the manner in which the FHV, CREACS and ABV systems are operated is not affected by these proposed changes. The proposed surveillance requirement acceptance criteria ensure that the FHV, CREACS and ABV safety functions will be accomplished. Therefore, the proposed TS changes would not result in a significant increase of the consequences of an accident previously evaluated, nor do they involve an increase in the probability of an accident previously evaluated.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed TS changes do not involve any physical changes to the design of any plant SSC. The design and operation of the FHV, CREACS and ABV systems are not changed from that currently described in Salem's licensing basis. The FHV, CREACS and ABV systems will continue to function as designed to mitigate the consequences of an accident. Implementing the proposed charcoal filter testing methods and acceptance criteria does not result in plant operation in a configuration that would create a different type of malfunction to the FHV, CREACS and ABV systems than any previously evaluated. In addition, the proposed TS changes do not alter the conclusions described in Salem's licensing basis regarding the safety related functions of these systems.

Therefore, the proposed TS change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. The proposed change does not involve a significant reduction in a margin of safety.

The proposed changes contained in this submittal implement TS requirements that: (1) Are consistent with the requirements delineated in Generic Letter 99–02; (2) implement testing methods that adequately demonstrate charcoal filter capability; and (3) establish appropriately conservative acceptance criteria. The charcoal filter efficiencies specified in the proposed surveillance requirements apply a safety factor of 2 to the efficiencies used in the design basis dose analysis. There are no increases to the currently approved offsite dose releases or the control room operator doses as a result of these surveillance requirement changes. Therefore, the proposed TS change will not result in a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Jeffrie J. Keenan, Esquire, Nuclear Business Unit–N21, P.O. Box 236, Hancocks Bridge, NJ 08038.

NRC Section Chief: James W. Clifford.

Public Service Electric & Gas Company, Docket Nos. 50–272 and 50–311, Salem Nuclear Generating Station, Units Nos. 1 and 2, Salem County, New Jersey

Date of amendment request: June 14, 2000.

Description of amendment request: The proposed license amendment would allow the use of the Best Estimate Analyzer For Core Operations—Nuclear (BEACON) system at Salem to perform core power distribution measurements. BEACON is a core power distribution monitoring and support system based on a three dimensional nodal code. The system is used to provide data reduction for incore neutron flux maps, core parameter analysis and follow, and core prediction. The licensee has stated that BEACON will be used at Salem to augment the functionality of the flux mapping system when thermal power is greater than 25% of rated thermal power for the purpose of performing power distribution surveillance testing.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed changes provide a different method for measuring the core power distribution parameters and relocate[s] manufacturing and measurement uncertainty values from the TS [Technical Specifications] to the core operating limits report (COLR). The [TS] power distribution limits themselves are not changed and will continue to be measured and verified to be within limits as required by the current TS surveillances. The cycle-specific core operating limits, although not in TS, will be followed in the operation of the Salem Generating Station. The proposed amendment continues to require the same actions to be taken when or if limits are exceeded as are required by current TS.

Each accident analysis addressed in the Salem Updated Final Safety Analysis Report (UFSAR) will be examined with respect to changes in cycle-dependent parameters, which are obtained from application of the NRC [Nuclear Regulatory Commission]-approved reload design methodologies, to ensure that the transient evaluation of new reloads are bounded by previously accepted analyses. This examination, which will be performed per requirements of 10 CFR 50.59, ensures that future reloads will not involve an increase in the probability or consequences of an accident previously evaluated.

The method of measuring core power distribution parameters and the location of manufacturing and measurement uncertainty values are not initiators of any previously evaluated accidents and has no influence or impact on the consequences those accidents. Therefore, the changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

No safety-related equipment, safety function, or plant operation will be altered as a result of the proposed changes. The cycle specific variables are calculated using the NRC-approved methods and submitted to the NRC to allow the Staff to continue to trend the values of these limits. The TS will continue to require operation within the required core operating limits and appropriate actions will be taken when or if limits are exceeded. The change will not introduce any new accident initiators. Therefore, the change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed change does not involve a significant reduction in a margin of safety.

The proposed changes provide a different method for measuring the core power distribution parameters and relocates manufacturing and measurement uncertainty values from the TS to the COLR. The proposed method for measuring the core power distribution parameters has been verified by Westinghouse and reviewed and approved by the NRC. Appropriate measures exist to control the values of the manufacturing and measurement uncertainties. The proposed amendment continues to require operation within the core limits, as obtained from NRC-approved reload design methodologies. Appropriate actions that [are] required to be taken when or if limits are violated remain unchanged. Future changes to measurement and manufacturing uncertainties located in the current TS will be evaluated in accordance with the requirements of 10 CFR 50.59. Since the 10 CFR 50.59 process does not allow any reduction in the margin of safety, prior NRC approval is required prior to a reduction in the margin of safety. Additionally, the Salem TS require revisions of the plant COLR be submitted to the NRC upon issuance. Therefore, the change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Jeffrie J. Keenan, Esquire, Nuclear Business Unit–N21, P.O. Box 236, Hancocks Bridge, NJ 08038.

NRC Section Chief: James W. Clifford.

South Carolina Electric & Gas Company (SCE&G), South Carolina Public Service Authority, Docket No. 50–395, Virgil C. Summer Nuclear Station, Unit No. 1, Fairfield County, South Carolina

Date of amendment request: June 12, 2000.

Description of amendment request: This amendment would revise the Virgil C. Summer Nuclear Station (VCSNS) Technical Specifications (TS) to incorporate new temperature and level limits for the ultimate heat sink (UHS) during plant operation in Modes 1–4. These limits are contained in TS Section 3/4.7.5. The minimum required service water pond (SWP) level would be increased from the 415′ elevation to 416.5′ and the maximum allowed temperature at the discharge of the service water pumps would be decreased from 95°F to 90.5°F.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the change involve a significant increase in the probability or consequences of an accident previously evaluated?

Implementation of the new temperature and level limits for the service water pond do not contribute to the initiation of any accident evaluated in the FSAR [Final Safety Analysis Report]. Supporting factors are as follows:

- The new limits maintain the Service Water System (SWS) design temperature of 95°F during a normal shutdown and post accident and have been developed in accordance with the general requirements of Regulatory Guide 1.27, Revision 2.
- Overall plant performance and operation is not altered by the proposed changes.
- Fluid and auxiliary systems, which are important to safety, are not adversely impacted and will continue to perform their design function.

Therefore, since the reactor coolant pressure boundary integrity and system functions are not impacted, the probability of occurrence of an accident evaluated in the VCSNS FSAR will be no greater than the original design basis of the plant.

The SWP level and temperature limits relate to the plant's ability to reject heat to the ultimate heat sink during normal operation, a normal plant shutdown and hypothetical accident conditions. The new limits preserve the SWS design temperature of 95°F, even during worst case post accident conditions, thus assuring that equipment within the SWS and its interfacing systems remain qualified and that the heat transport capability of the SWS and its interfacing systems [remain] within design values. Since the SWS and its interfacing systems will continue to perform their design functions, it is concluded that the consequences of an accident previously evaluated in the FSAR are not increased.

2. Does the change create the possibility of a new or different kind of accident from any accident previously evaluated?

The proposed changes revise the UHS temperature and level limits within TS 3/4.7.5 to incorporate the results of a new thermal analysis performed in accordance with the requirements of Regulatory Guide 1.27, Revision 2. The new limits ensure that SW temperature, as measured at the discharge of the SW pump, [remains] less than the design value of 95°F. No new accident initiator mechanisms are introduced as:

- Structural integrity of the RCS [reactor coolant system] is not challenged.
- No new failure modes or limiting single failures are created.
- Design requirements on all affected systems are met.

Since the safety and design requirements continue to be met and the integrity of the reactor coolant system pressure boundary is not challenged, no new accident scenarios have been created. Therefore, the types of accidents defined in the FSAR continue to represent the credible spectrum of events to be analyzed which determine safe plant operation.

3. Does this change involve a significant reduction in margin of safety?

The proposed changes revise the UHS temperature and level limits [within] TS 3/4.7.5 to incorporate the results of a new thermal analysis performed in accordance with the requirements of Regulatory Guide 1.27, Revision 2. The new limits ensure that SW temperature, as measured at the discharge of the SW pump, [remains] less than the design value of 95°F under both normal and post-accident conditions using the worst case combination of meteorology and operational parameters. Design margins associated with systems, structures and components that are cooled by the SWS are not affected. Since the SWS design temperature is maintained during both normal and worst case accident conditions, the results and conclusions for all design basis accidents remain applicable.

The proposed changes impose more restrictive operating limitations, and their use provides increased assurance that the SWS design temperature will not be exceeded. Since the UHS will continue to provide a 30 day cooling water supply to safety related equipment without exceeding their design basis temperature, it is concluded that the changes do not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Thomas G. Eppink, South Carolina Electric & Gas Company, Post Office Box 764, Columbia, South Carolina 29218.

NRC Section Chief: L. Raghavan, Acting.

Southern Nuclear Operating Company, Inc., et al., Docket Nos. 50–424 and 50–425, Vogtle Electric Generating Plant, Units 1 and 2, Burke County, Georgia

Date of amendment request: October 13, 1999, as supplemented by letter dated June 1, 2000.

Description of amendment request: The proposed amendments would revise Vogtle's Technical Specification to permit relaxation of allowed bypass test time and completion times for Limiting Conditions for Operations (LCO) 3.3.1, Reactor Trip System Instrumentation and LCO 3.3.2, Engineered Safety Feature Actuation System Instrumentations. These changes specifically revise the completions times from 6 hours to 72 hours for inoperable analog instruments, increase bypass times from 4 hours to 12 hours for surveillance testing of analog channels, and increase completion times from 6 hours to 24 hours for an inoperable logic cabinet or master and slave relays.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed license amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The reactor trip and engineered safety features functions are not initiators of any design basis accident or event, and therefore the proposed changes do not increase the probability of any accident previously evaluated. The proposed changes to the allowed Completion Times and bypass test times do not change the response of the plant to any accidents and have an insignificant impact on the reliability of the reactor trip system and engineered safety feature actuation system (RTS and ESFAS) signals. The RTS and ESFAS will remain highly reliable and the proposed changes will not result in a significant increase in the risk of plant operation. This is demonstrated by showing that the impact on plant safety as measured by core damage frequency (CDF) is less than 1.0E–06 per year and the impact on large early release frequency (LERF) is less than 1.0E–07 per year. In addition, the incremental conditional core damage probabilities (ICCDP) and incremental conditional large early release probabilities (ICLERP) are less than 5.0E–08. These increases/values meet the acceptance criteria in Regulatory Guide 1.174 and 1.177. Therefore, since the RTS and ESFAS will continue to perform their functions with high reliability as originally assumed, and the increase in risk as measured by CDF, LERF, ICCDP, ICLERP is within the acceptance criteria of existing regulatory guidance, there will not be a significant increase in the consequences of any accidents.

2. The proposed license amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed changes do not result in a change in the manner in which the RTS and ESFAS provide plant protection. The RTS and ESFAS will continue to have the same setpoints after the proposed changes are implemented. There are no design changes associated with the license amendment. The changes to Completion Times or increased bypass test times do not change any existing accident scenarios nor create any new or different accident scenarios. Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed license amendment does not involve a significant reduction in margin of safety.

The proposed changes do not alter the manner in which safety limits, limiting safety system settings or limiting conditions for operation are determined. Safety analysis acceptance criteria are not impacted. Redundant RTS and ESFAS trains are maintained, and diversity with regard to signals to provide reactor trip and engineered safety features actuation will be maintained. All signals credited as primary or secondary, and all operator action credited in the accident analyses will remain the same. The proposed changes will not result in plant operation in a configuration outside the design basis. The calculated impact on risk is insignificant and meets the acceptance criteria in Regulatory Guide 1.174 and 1.177. Although there was no attempt to quantify any positive human factors benefit due to increased Completion Times and bypass test times, it is expected that there would be a net benefit due to a reduced potential for spurious reactor trips and actuations associated with testing. Therefore, the proposed license amendment does not involve a significant reduction in margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Mr. Arthur H. Domby, Troutman Sanders, NationsBank Plaza, Suite 5200, 600 Peachtree Street, NE., Atlanta, Georgia 30308–2216.

Acting Section Chief: L. Raghavan, Acting.

STP Nuclear Operating Company, Docket Nos. 50–498 and 50–499, South Texas Project, Units 1 and 2, Matagorda County, Texas

Date of amendment request: September 28, 1998, as revised on April 22, 1999, and April 27, 2000. This application was originally noticed on November 18, 1998 (63 FR 64122).

Description of amendment request: The proposed amendments would modify the requirements associated with the control room and fuel handling building heating, ventilation, and air conditioning systems by adding an allowed outage time of 12 hours for a condition where multiple trains of the control room and fuel handling building heating, ventilation, and air conditioning systems are inoperable. The proposed amendments also include changes to make the required action for the affected ventilation actuation instrumentation consistent with the action for inoperable ventilation trains. In addition, the proposed amendments include minor administrative changes to remove an expired dated action and to provide consistency of terminology used in the Technical Specifications (TSs).

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the change involve a significant increase in the probability or consequences of an accident previously evaluated?

The proposed changes do not involve an [significant] increase in the probability or consequences of an accident previously evaluated. The proposed changes consist of:

(a) Assuring that the Specifications define consistent allowed outage times when the same safety function is addressed in multiple Specifications,

(b) Allowing a system to remain inoperable when appropriately restrictive administrative controls are placed on operations that could result in a challenge to the safety function of the system,

(c) Providing an appropriately short Allowed Outage Time for inoperability needed to permit required maintenance and testing that affects all trains of a system,

(d) Redefining system operability and associated actions in a manner consistent with the system design and function,

(e) Aligning a system to the actuated condition on the loss of an actuation channel,

(f) Using consistent terminology throughout the Specifications.

The proposed changes do not represent significant increases in the probability or consequences of an accident because:

(a) The alignment of the action times between actuating system and actuated system operability requirements do not affect probability or consequences since inoperability of the actuated system has the same effect as inoperability of the actuating system. Since the changes proposed to the actuating system action times will reflect those of the actuated system action times, no change to the allowed outage time applicable to the safety function addressed and fulfilled by both, will occur.

(b) Administrative controls to prevent the conduct of operations that could lead to a challenge to the safety function of the system when the actuation system is inoperable, assures that the design bases functions of the system will not be challenged. Therefore, the probability or consequences of an event previously identified have not been significantly changed.

(c) Allowing up to 12 hours to recover from the inoperability of all 3 trains of Control Room Envelope HVAC [heating, ventilation, and air conditioning] or 2 or more trains of Fuel Handling Building HVAC does not represent a significant change to the probability of an accident. The inoperability of the Fuel Handling Building HVAC systems is not identified as a precursor to a design basis event. The inoperability of the Control Room Envelope HVAC is not a percursor to any event previously evaluated in the UFSAR [Updated Final Safety Analysis Report]. With respect to the PRA [probabilistic risk assessment] analysis for Control Room Envelope HVAC, the allowed outage time provides sufficient time to restore Control Room Envelope HVAC to the rooms serving the Reactor Protection System before any detrimental effects would occur or to place the plant in MODE 3 if Control Room Envelope HVAC could not be restored. The low likelihood of a design basis accident during the limited period of allowed inoperability of these systems does not involve a significant increase in the consequences of an accident. The proposed required actions to suspend all operations involving movement of spent fuel, and crane operations with loads over the spent fuel pool reduce the potential for accident initiation during the allowed outage time.

(d) The redefinition of plant operability requirements into functional trains rather than individual components does not affect the required system functional operability. Therefore, this change does not involve an increase in the probability or consequences of an accident previously identified.

(e) The alignment of the Control Room Envelope HVAC System to the same configuration it would be placed in from an actuation of the inoperable radiation monitoring channel places the system in the design condition. This alignment would result in maintaining the control room envelope pressurized and increases the protection afforded to the operators.

(f) The change in terminology does not change any requirements or actions in the Specification. Therefore this change does not represent an increase in the probability or consequences of any accident previously evaluated.

(g) Revising the applicability of Technical Specification ACTION b. in MODES 5 and 6 will add clarity to the specification and make it better reflect STP's three train design. The clarification provides some additional assurance that the system will perform as assumed in the analyses.

Based on the above discussion, the individual changes do not represent an [significant] increase in the probability or consequences of any accident previously evaluated.

In addition to the changes proposed to controls over Control Room Envelope HVAC, Fuel Handling Building HVAC, and associated actuation logic, an administrative change is proposed to remove the footnotes at the bottom of pages 3/4 3–28, 3/4 7–19, and 3/4 7–20. Since the footnotes no longer have meaning or relevance to the operation of the facility, their removal does not increase the probability or consequences of any accident previously evaluated.

2. Does the change create the possibility of a new or different kind of accident from any accident previously evaluated?

The proposed changes make the existing Specifications internally consistent, manually align a system to the actuated position, provide an alternative measure that assures [that] a safety function which is unavailable is not required to [be] perform[ed], provide an extended period of allowance for all trains of a system to be inoperable, and redefines system operability to reflect its functional design. The proposed changes do not introduce any new equipment into the plant or significantly alter the manner in which existing equipment will be operated. The limited allowed outage time of three inoperable Control Room Envelope HVAC systems has no detrimental effect on the operation of the Reactor Protection System. The systems affected by the proposed changes are not identified as contributing causal factors in design basis accidents; their function is to assist in mitigation of accidents postulated to occur. Since the proposed changes do not allow activities that are significantly different from those presently allowed, no possibility exists for a new or different kind of accident from those previously evaluated.

In addition to the changes proposed to controls over Control Room Envelope HVAC, Fuel Handling Building HVAC, and associated actuation logic, an administrative change is proposed to remove the footnotes at the bottom of pages 3/4 3–28, 3/4 7–19, and 3/4 7–20. Since the footnotes no longer have meaning or relevance to the operation of the facility, their removal does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does this change involve a significant reduction in a margin of safety?

The proposed changes do not involve a significant reduction in a margin of safety because the ability of the Fuel Handling Building HVAC and Control Room Envelope HVAC Systems to perform their function will be maintained. The margin of safety is defined by the ability of the systems to limit the release of radioactive materials and limit exposures to operators following a postulated design basis accident. The only aspect of the proposed change that can be postulated to have any effect on a margin of safety is the proposed allowance for all trains of Control Room Envelope HVAC or Fuel Handling Building HVAC to be inoperable for a limited period. The low probability of a design basis event that would require the system to perform its safety function during the limited period allowed by the proposed action assures that the change does not involve a significant change in a margin of safety. Therefore, the proposed changes do not significantly affect these operating restrictions and the margin of safety which support the ability to make and maintain the reactor in a safe shutdown and limit the release of radioactive material is not affected.

Sufficient time is allowed to restore Control Room Envelope HVAC to the rooms serving the Reactor Protection System before any detrimental effects would occur or to place the plant in MODE 3 if Control Room Envelope HVAC could not be restored.

Revising the applicability of Technical Specification 3.7.7 ACTION b. in MODES 5 and 6 will add clarity to the specification, make it better reflect STP's three train design and provide greater assurance that desired margins are maintained.

Suspending fuel movement and crane operations with loads over the spent fuel pool when all Fuel Handling Building or Control Room Envelope HVAC systems are inoperable prevents a Fuel Handling Accident from occurring, which maintains the margin of safety for this design event.

In addition to the changes described above, an administrative change is proposed to remove the footnotes at the bottom of pages 3/4 3–28, 3/4 7–19, and 3/4 7–20. Since these footnotes are no longer applicable to the facility, their removal cannot result in a reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the standards of 10 CFR 50.92(c) are satisfied. The staff also reviewed the proposed change to provide consistency of terminology in the TSs for no significant hazards consideration. This proposed administrative change does not affect the design or operation of the facility and satisfies the three standards of 10 CFR 50.92(c). Therefore, the NRC staff proposes to determine that the request for amendments involves no significant hazards consideration.

Attorney for licensee: Jack R. Newman, Esq., Morgan, Lewis & Bockius, 1800 M Street, NW., Washington, DC 20036–5869.

NRC Section Chief: Robert A. Gramm.

Tennessee Valley Authority, Docket Nos. 50–327 and 50–328, Sequoyah Nuclear Plant, Units 1 and 2, Hamilton County, Tennessee

Date of amendment request: June 22, 2000.

Description of amendment request: The proposed amendment would revise the Technical Specifications (TS) to remove the applicability of core alteration requirements from those TS that are designed to mitigate the consequences of a fuel handling accident. The applicable TS bases would also be revised.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

A. The proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed revision eliminates requirements associated with core alterations for specifications that are intended to mitigate the consequences of a fuel handling accident (FHA). These functions will not impact accident generation because their function is to support mitigation of accidents and they are not considered to be the source of a postulated accident. The removal of these actions and surveillance requirements affects functions that are not necessary during core alterations because postulated events during these activities do not have the potential to result in major fuel cladding damage like that assumed for an FHA. Therefore, there is no adverse impact to nuclear safety by eliminating core alteration requirements for specifications that provide for the mitigation of an FHA.

The proposed revision also clarifies the use of equivalent methods for isolation of containment penetrations. Equivalent isolation methods will maintain acceptable isolation capability for postulated conditions that could occur during the movement of irradiated fuel. This change does not alter the current intent or expectations for containment closure requirements during the movement of irradiated fuel and only serves to delineate other methods that provide an acceptable level of isolation. The status of penetration isolation methods during fuel movement does not impact the generation of an accident. This is based on these functions only providing a radiation barrier in the event of an FHA and not as a potential initiator for postulated accidents.

Based on the previous discussions, the proposed revision does not alter any plant equipment or operating practices; therefore, the probability of an accident is not significantly increased. In addition, the consequences of an accident is not significantly increased by eliminating core alteration requirements for specifications that only support the mitigation of FHAs or by using equivalent isolation methods for containment penetrations. This is based on sufficient safety function capabilities being available for the mitigation of an FHA or other potential events that could occur during core alteration activities.

B. The proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed allowance to eliminate core alteration requirements for FHA related specifications and utilize equivalent isolation methods for containment penetrations will not alter plant functions or equipment operating practices. The proposed elimination of core alteration requirements will not impact accident generation because these functions provide for FHA mitigation and are not postulated to be an initiator of postulated accidents. Containment penetration isolation methods are not considered to be the source of a postulated accident. Therefore, since plant functions and equipment are not altered and the availability of FHA mitigation functions and isolation of containment penetrations do not contribute to the initiation of postulated accidents, the proposed revision will not create a new or different kind of accident.

C. The proposed amendment does not involve a significant reduction in a margin of safety.

The elimination of core alteration requirements for specifications that provide mitigation functions for FHAs will not affect the ability of these functions to perform as necessary. This is based on postulated events during core alteration not having the potential to result in fuel cladding damage that is assumed for the FHA and therefore, not requiring functions necessary to mitigate the FHA event. The proposed revision will continue to provide acceptable provisions for activities that could result in an FHA or events postulated during core alterations to maintain the necessary margin of safety.

The equivalent methods for containment penetration isolation provide the same level of isolation for conditions that may occur during fuel movement. Therefore, the equivalent isolation methods provide an acceptable barrier to the release of radiation as do the other listed methods and maintains the required margin of safety.

Therefore, the margin of safety provided by the containment building penetration requirements and other specifications for the mitigation of FHAs is not significantly reduced by the proposed allowance to eliminate affected core alteration requirements or to use equivalent methods for containment penetration isolation.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, ET 10H Knoxville, Tennessee 37902 .

NRC Section Chief: Richard P. Correia.

Virginia Electric and Power Company, Docket Nos. 50–338 and 50–339, North Anna Power Station, Units No. 1 and No. 2, Louisa County, Virginia

Date of amendment request: June 22, 2000.

Description of amendment request: The proposed changes will modify the Technical Specifications in Sections 3.1.2.7, 3.1.2.8, 3.5.1, 3.5.5, 3.6.2.2, 3.9.1, and associated Bases Sections to allow for an increase of boron in the refueling water storage tank (RWST), casing cooling tank (CCT), spent fuel pool, and safety injection accumulators (SIAs).

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the change involve a significant increase in the probability or consequences of an accident previously evaluated.

Increased boron concentration limits for the RWST, CCT, SIAs, and Spent Fuel Pool (SFP) will not increase the consequences of an accident previously evaluated. The increased boron concentration limits reduce the time to switchover from cold to hot leg recirculation, which will prevent boron precipitation in the reactor vessel following a loss of coolant accident (LOCA). The post-LOCA sump boron concentration limit is revised to ensure adequate post-LOCA shutdown margin. The post-LOCA containment sump and quench spray (QS) pH remain within the limits specified in the Standard Review Plan. All other transients either were not impacted or were made less severe as a result of the increased boron concentrations.

2. Does the change create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed increase in boron concentration does not add new or different equipment to the facility, nor does this change the manner that plant equipment is being operated. Although the increased boron concentration requires procedure changes to ensure that cold to hot leg (reactor coolant loops) recirculating after an accident occurs earlier in the event, there are no changes to the methods utilized to respond to plant transients. The proposed Technical Specification changes do not alter instrumentation setpoints that initiate protective or mitigative actions. As a result, no new failure modes are being introduced. Therefore, the possibility for an accident of a different type than was previously evaluated in the Safety Analysis Report is not created.

3. Does the change involve a significant reduction in a margin of safety.

The LOCA considerations, including the recirculation switchover time, the post-LOCA sump boron concentration limit, and the quench spray and post-LOCA sump pH have been evaluated and found to be acceptable. The acceptance criteria of all non-LOCA transients continue to be met. Therefore, there is no significant reduction in the margin of safety in the accident analyses

impacted by boron concentration increases in the RWST, CCT, SIAs, and SFP.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Mr. Donald P. Irwin, Esq., Hunton and Williams, Riverfront Plaza, East Tower, 951 E. Byrd Street, Richmond, Virginia 23219.

NRC Section Chief: L. Raghavan, Acting.

Virginia Electric and Power Company, Docket Nos. 50–338 and 50–339, North Anna Power Station, Units No. 1 and No. 2, Louisa County, Virginia

Date of amendment request: June 22, 2000.

Description of amendment request: The proposed changes modify the limiting conditions for operation, surveillance requirements, and the Bases for the North Anna Power Station (NAPS) Units 1 and 2 Technical Specifications 3.4.1.4, 3.4.1.6, 4.4.1.4, 4.4.1.6.1, and add 4.4.1.6.4 to extend the drained reactor coolant loop verification time from 2 hours to 4 hours prior to backfilling when returning the drained loop to service. This amendment request supersedes the August 4, 1999, request in its entirety (64 FR 48868, September 8, 1999).

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

Virginia Electric and Power Company has reviewed the requirements of 10 CFR 50.92 as they relate to the proposed changes for the North Anna Units 1 and 2 and determined that a significant hazards consideration is not involved. The proposed [revision to the] Technical Specification[s] establishes limiting conditions for operation and surveillance requirements for isolated loops backfill. Specifically, Technical Specifications requirements are being established to control the source of borated water for seal injection to the reactor coolant pumps (RCP) and to address reactivity control of an isolated and filled loop. The proposed controls ensure that the boron concentration of any source of water used for reactor coolant pump seal injection is greater than or equal to the boron concentration corresponding to the shutdown margin requirements for the applicable Mode. The proposed changes will establish consistent reactivity controls for isolated Reactor Coolant Systems (RCS) loops. The Bases [have] been revised to further discuss the additional controls for the loop backfill evolution. Adequate Technical Specifications controls have been established to ensure that an uncontrolled positive reactivity addition does not occur during a loop backfill evolution. The proposed changes will ensure that an inadvertent/undetected positive reactivity addition does not occur. The following is provided to support this conclusion.

1. Does the change involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed Technical Specification limiting conditions for operation and surveillance requirements ensure that the initiation of seal injection in order to allow a partial vacuum to be established in an isolated and drained loop will not create the potential for an inadvertent/undetected introduction of under-borated water into an isolated loop prior to returning the isolated loop to service. The proposed Technical Specification controls prevent any additions of makeup or seal injection that would violate the existing shutdown margin requirements for the active portion of the RCS. Thus, adequate Technical Specification controls are established to preclude an inadvertent/undetected boron dilution event. Therefore, there is no increase in the probability or consequences of any accident previously evaluated.

2. Create the possibility of a new or different kind of accident from any accident previously evaluated.

There are no modifications to the plant as a result of the changes. The proposed Technical Specification Limiting Conditions for Operation and Surveillance Requirements ensure that the initiation of seal injection will not create an undetected positive reactivity addition. No new accident or event initiators are created by the initiation of seal injection for the RCP in the isolated loop in order to establish a partial vacuum in that isolated and drained loop. Therefore, the proposed changes do not create the possibility of any accident or malfunction of a different type previously evaluated.

3. Involve a significant reduction in the margin of safety as defined in the bases on any Technical Specifications.

The proposed changes have no effect on safety analyses assumptions. Rather, the proposed changes acknowledge the establishment of seal injection for the RCP in the isolated and drained loop as a prerequisite for the vacuum-assisted backfill technique. The proposed Technical Specification Limiting Conditions for Operation and Surveillance Requirements ensure that the initiation of seal injection in order to allow a partial vacuum to be established in an isolated and drained loop will not create the potential for an inadvertent/undetected introduction of under-borated water into an isolated loop prior to returning the isolated loop to service. Adequate Technical Specifications controls are established to preclude an inadvertent/undetected boron dilution event. In addition, the proposed controls prevent any additions of makeup or seal injection that would violate the existing shutdown margin requirements for the active portion of the Reactor Coolant System. Therefore, the proposed changes do not result in a reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Mr. Donald P. Irwin, Esq., Hunton and Williams, Riverfront Plaza, East Tower, 951 E. Byrd Street, Richmond, Virginia 23219.

NRC Section Chief: L. Raghavan, Acting.

Wolf Creek Nuclear Operating Corporation, Docket No. 50–482, Wolf Creek Generating Station, Coffey County, Kansas

Date of amendment request: June 27, 2000 (WM 00–0026).

Description of amendment request: The proposed amendment would revise Appendix C, ''Antitrust Conditions for Kansas Gas and Electric Company [KGE],'' for the Wolf Creek Generating Station (WCGS) operating license. The revisions would (1) state that the specific conditions applicable to Kansas Electric Power Cooperative, Inc. (KEPCo) do not restrict its rights, or the duties of KGE, under other license conditions, (2) define ''KGE members in licensee's service area'' in the appendix to include all KEPCo members with facilities in Western Resources' and KGE's combined service area, (3) delete license conditions restricting KEPCo's use of the power from WCGS, (4) remove out-of-date conditions, and (5) update conditions to be consistent with the terms and conditions of Western Resources' Federal Energy Regulatory Commission (FERC) open access transmission tariff. Western Resources is the parent company of KGE.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed change merely revises the KGE Antitrust Conditions in the Wolf Creek Generating Station Facility Operating License. The proposed change is considered an administrative change and does not modify, add, delete, or relocate any technical requirements of the Technical Specifications. As such, the administrative changes do not affect initiators of analyzed events or assumed mitigation of accident or transient events. Therefore, this change does not

involve a significant increase in the probability or consequences of an accident previously analyzed.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed change does not involve a physical alteration of the plant (no new or different type of equipment will be installed) or changes in methods governing normal plant operation. The proposed change will not impose any new [requirements] or eliminate any old requirements. Thus, the change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed change does not involve a significant reduction in a margin of safety.

The proposed change will not reduce a margin of safety because there is no effect on any safety analyses assumptions. The changes are administrative in nature. Therefore, the change does not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Jay Silberg, Esq., Shaw, Pittman, Potts and Trowbridge, 2300 N Street, N.W., Washington, D.C. 20037.

NRC Section Chief: Stephen Dembek.

Previously Published Notices of Consideration of Issuance of Amendments to Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The following notices were previously published as separate individual notices. The notice content was the same as above. They were published as individual notices either because time did not allow the Commission to wait for this biweekly notice or because the action involved exigent circumstances. They are repeated here because the biweekly notice lists all amendments issued or proposed to be issued involving no significant hazards consideration.

For details, see the individual notice in the **Federal Register** on the day and page cited. This notice does not extend the notice period of the original notice.

Niagara Mohawk Power Corporation, Docket No. 50–410, Nine Mile Point Nuclear Station Unit No. 2, Oswego County, New York

Date of application for amendment: June 7, 2000.

Brief description of amendment: The proposed amendment would revise Section 3.10.8, ''SHUTDOWN MARGIN (SDM) Test—Refueling,'' of the Technical Specifications (TS), correcting an administrative error introduced when Amendment No. 91 (converting the TS to the Improved TS format) was processed.

Date of publication of individual notice in ***Federal Register:*** June 16, 2000 (65 FR 37807).

Expiration date of individual notice: July 17, 2000.

Notice of Issuance of Amendments to Facility Operating Licenses

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for A Hearing in connection with these actions was published in the **Federal Register** as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the applications for amendment, (2) the amendment, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment as indicated. All of these items are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and electronically from the ADAMS Public Library component on the NRC Web site, *http://www.nrc.gov* (the Electronic Reading Room).

Arizona Public Service Company, et al., Docket Nos. STN 50–528, STN 50–529, and STN 50–530, Palo Verde Nuclear Generating Station, Units Nos. 1, 2, and 3, Maricopa County, Arizona

Date of application for amendments: May 26, 1999, as supplemented March 31, 2000.

Brief description of amendments: The amendments revise Technical Specification 3.3.1, ''Reactor Protective System (RPS) Instrumentation—Operating,'' to change the allowable values for two of the trip setpoints. The change will reduce spurious reactor trip hazards associated with these setpoints while maintaining plant protection.

Date of issuance: July 6, 2000.

Effective date: July 6, 2000, to be implemented within 60 days. For surveillance requirements associated with the revised allowable values for functions 12 and 13 in Technical Specification Table 3.3.1–1, the first performance is due at the end of the first surveillance interval that began on the date the surveillance was last performed prior to the date of implementation of these amendments.

Amendment Nos.: Unit 1–126, Unit 2–126, Unit 3–126.

Facility Operating License Nos. NPF–41, NPF–51, and NPF–74: The amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** May 17, 2000 (65 FR 31355).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 6, 2000.

No significant hazards consideration comments received: No.

Baltimore Gas and Electric Company, Docket Nos. 50–317, 50–318, and 72–8, Calvert Cliffs Nuclear Power Plant, Unit Nos. 1 and 2, and Independent Spent Fuel Storage Installation, Calvert County, Maryland

Date of application for amendment: February 29, 2000, as supplemented April 7, April 27, May 2, May 19, and June 20, 2000.

Brief description of amendment: These amendments conform the licenses to reflect the transfer of Operating Licenses Nos. DPR–53 and DPR–69 for the Calvert Cliffs Nuclear Power Plant, Units 1 and 2, and Materials License No. SNM–2505 for the Calvert Cliffs Independent Spent Fuel Storage Installation held by Baltimore Gas and Electric Company to Calvert Cliffs Nuclear Power Plant, Inc.

Date of Issuance: June 30, 2000.

Effective date: As of the date of issuance to be implemented within 45 days.

Amendment No.: 237 and 211.

Facility Operating License No. DPR–53, DPR–69: Amendments revised the Operating Licenses, and Materials License No. SNM–2505 and the Materials License Technical Specifications.

Date of initial notice in ***Federal Register:*** May 4, 2000 (65 FR 25963)

The April 7, April 27, May 2, May 19, and June 20, 2000, supplements did not expand the scope of the initial application as originally noticed.

The Commission's related evaluation of these amendments is contained in a Safety Evaluation dated June 30, 2000.

No significant hazards consideration comments received: No.

Energy Northwest, Docket No. 50–397, WNP–2, Benton County, Washington

Date of application for amendment: July 29, 1999.

Brief description of amendment: The amendment revises items 1.a, 2.a, 4.a, and 5.a of Technical Specification Table 3.3.5.1–1, ''Emergency Core Cooling System Instrumentation,'' to change the reactor vessel water level—level 1 allowable value.

Date of issuance: July 13, 2000.

Effective date: July 13, 2000, to be implemented within 30 days from the date of issuance.

Amendment No.: 166.

Facility Operating License No. NPF–21: The amendment revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** August 25, 1999 (64 FR 46431) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 13, 2000.

No significant hazards consideration comments received: No.

Entergy Operations, Inc., System Energy Resources, Inc., South Mississippi Electric Power Association, and Entergy Mississippi, Inc., Docket No. 50–416, Grand Gulf Nuclear Station, Unit 1, Claiborne County, Mississippi

Date of application for amendment: August 20, 1999.

Brief description of amendment: Incorporates 16 improvements (identified by Technical Specifications Task Force (TSTF) numbers) to the Improved Standard Technical Specifications, NUREG–1434 (for General Electric model Boiling Water Reactor/6 (BWR/6) plants such as Grand Gulf Nuclear Station (GGNS)), that was part of the basis for the current improved Technical Specifications for GGNS that were issued in Amendment 120 dated February 21, 1995. The 17 improvements are the following TSFTs: 2, 5, 17, 18, 32, 33, 38, 45, 60, 104, 118, 153, 163, 166, 278, and 279. The licensee withdrew its request to incorporate TSTF–9 into the TSs.

Date of issuance: June 30, 2000.

Effective date: As of the date of issuance and shall be implemented within 30 days of issuance.

Amendment No.: 142.

Facility Operating License No. NPF–29: The amendment revises the Technical Specifications.

Date of initial notice in ***Federal Register:*** December 29, 1999 (64 FR 73089).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated June 30, 2000.

No significant hazards consideration comments received: No.

Entergy Operations, Inc., Docket No. 50–382, Waterford Steam Electric Station, Unit 3, St. Charles Parish, Louisiana

Date of amendment request: October 18, 1999, as supplemented by letters dated May 16, 2000, and June 1, 2000.

Brief description of amendment: The amendment modifies Technical Specification (TS) 3.6.2.2 Limiting Condition for Operation to allow Waterford Steam Electric Station, Unit 3 to operate with two independent trains of containment cooling, consisting of one cooler per train, operable during modes 1, 2, 3, and 4. Associated changes to the TS Bases have been incorporated.

Date of issuance: July 6, 2000.

Effective date: As of the date of issuance and shall be implemented 60 days from the date of issuance.

Amendment No.: 165.

Facility Operating License No. NPF–38: The amendment revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** February 9, 2000 (65 FR 6407). The May 16, 2000, and June 1, 2000, supplements did not expand the scope of the application as noticed or change the proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 6, 2000.

No significant hazards consideration comments received: No.

FirstEnergy Nuclear Operating Company, et al., Docket Nos. 50–334 and 50–412, Beaver Valley Power Station, Unit Nos. 1 and 2, Shippingport, Pennsylvania

Date of application for amendments: July 15, 1999.

Brief description of amendments: The amendments change the Technical Specifications (TSs) surveillance frequency for the quench and recirculation spray system nozzle air flow test. The amendments also change terminology in the TS action statement for the TS axial flux difference, and make other miscellaneous editorial and format changes.

Date of issuance: July 11, 2000.

Effective date: As of the date of its issuance and shall be implemented within 60 days.

Amendment Nos.: 231 and 111.

Facility Operating License Nos. DPR–66 and NPF–73: Amendments revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** November 17, 1999 (64 FR 62708) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated July 11, 2000.

No significant hazards consideration comments received: No.

Northeast Nuclear Energy Company, et al., Docket No. 50–336, Millstone Nuclear Power Station, Unit No. 2, New London County, Connecticut

Date of application for amendment: January 27, 2000, as supplemented May 30, 2000.

Brief description of amendment: The amendment will modify the action statement for Technical Specification (TS) 3/4.7.11, ''Ultimate Heat Sink,'' to permit Unit 2 to remain in operation with the ultimate heat sink water temperature greater than 75° F and less than 77° F, for a period of up to 12 hours provided the water temperature is verified below 77° F at least once per hour. This is a one-time change during the summer period and will expire after October 15, 2000, and revert back to the original TS action statement.

Date of issuance: July 10, 2000.

Effective date: As of the date of issuance and shall be implemented within 30 days from the date of issuance.

Amendment No.: 247.

Facility Operating License No. DPR–65: Amendment revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** March 22, 2000 (65 FR 15382) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 10, 2000.

No significant hazards consideration comments received: No.

Northern States Power Company, Docket Nos. 50–282 and 50–306, Prairie Island Nuclear Generating Plant, Units 1 and 2, Goodhue County, Minnesota

Date of application for amendments: March 19, 1999.

Brief description of amendments: The amendments revise paragraph 2.C.(4) of the Operating Licenses related to the fire

protection program at Prairie Island, Units 1 and 2. Specifically, the proposed amendments would (1) remove reference to two NRC safety evaluation reports (SEs) that are no longer applicable to the fire protection program at Prairie Island and (2) correct the date of one SE.

Date of issuance: July 11, 2000.

Effective date: As of the date of issuance and shall be implemented within 30 days.

Amendment Nos.: 150 and 141.

Facility Operating License Nos. DPR–42 and DPR–60: Amendments revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** April 28, 2000 (65 FR 25001).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated July 11, 2000.

No significant hazards consideration comments received: No.

Northern States Power Company, Docket Nos. 50–282 and 50–306, Prairie Island Nuclear Generating Plant, Units 1 and 2, Goodhue County, Minnesota

Date of application for amendments: April 12, 1999, as supplemented July 7, 2000.

Brief description of amendments: The amendments revise several Technical Specification (TS) sections in order to relocate shutdown margin requirements to the Core Operating Limits Report and to ensure that the TS requirements are consistent with the dilution analysis in the Updated Safety Analysis Report.

Date of issuance: July 11, 2000.

Effective date: As of the date of issuance and shall be implemented within 30 days.

Amendment Nos.: 151 and 142.

Facility Operating License Nos. DPR–42 and DPR–60: Amendments revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** April 28, 2000 (65 FR 24999). The July 7, 2000, supplemental letter provided clarifying information that was within the scope of the original application and did not change the staff's original proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated July 11, 2000.

No significant hazards consideration comments received: No.

Northern States Power Company, Docket Nos. 50–282 and 50–306, Prairie Island Nuclear Generating Plant, Units 1 and 2, Goodhue County, Minnesota

Date of application for amendments: November 17, 1999, as supplemented April 6, 2000.

Brief description of amendments: The amendments revise Technical Specification (TS) 3.1.A.1, ''Reactor Coolant Loops and Coolant Circulation,'' to (1) establish required actions and a 72 hour time limit for operation with the reactor coolant system (RCS) average temperature above 350 °F and no reactor coolant pumps (RCPs) running, (2) extend from 6 hours to 12 hours the time within which the RCS average temperature must be reduced to below 350 °F if 72 hours are exceeded and no RCPs are restored to operability and operation, and (3) extend the time limit for operations with no RCPs running from 1 hour to 12 hours for situations where the RCPs are stopped as a result of preplanned work activities.

Date of issuance: July 14, 2000

Effective date: As of the date of issuance and shall be implemented within 30 days.

Amendment Nos.: 152 and 143

Facility Operating License Nos. DPR–42 and DPR–60: Amendments revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** November 29, 1999 (64 FR 66670).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated July 14, 2000.

No significant hazards consideration comments received: No.

PP&L, Inc., Docket Nos. 50–387 and 50–388, Susquehanna Steam Electric Station, Units 1 and 2, Luzerne County, Pennsylvania

Date of application for amendments: December 15, 1999, as supplemented February 7, March 24, April 28, May 4, and May 30, 2000.

Brief description of amendments: The amendments conform the operating licenses for each of the units to reflect the transfer of the operating licenses, to the extent held by PP&L, Inc., to PPL Susquehanna, LLC.

Date of issuance: July 1, 2000

Effective date: As of date of issuance, to be implemented within 30 days.

Amendment Nos.: 188 and 162.

Facility Operating License Nos. NPF–14 and NPF–22. The amendments revised the license.

Date of initial notice in ***Federal Register:*** March 3, 2000 (65 FR 11611). The March 24, April 28, May 4, and May 30, 2000, letters provided clarifying information. The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated June 6, 2000.

Public Service Electric & Gas Company, Docket Nos. 50–272 and 50–311, Salem Nuclear Generating Station, Unit Nos. 1 and 2, Salem County, New Jersey

Date of application for amendments: April 14, 1999, as supplemented on March 2, 2000.

Brief description of amendments: The license amendment revises Technical Specification (TS) Section 3/4.9.12, ''Fuel Handling Area Ventilation System,'' and provides greater consistency between the two Salem units, removes inappropriate and invalid surveillance requirements (SR), and clarifies the Bases. The revised TS Section 3/4.9.12 will require that the high efficiency particulate air (HEPA) and charcoal filters to be in service prior to moving irradiated fuel in the Fuel Handling Building. This will be accomplished by the addition of a new SR 4.9.12.b. The new SR allows the licensee to eliminate an automatic actuation feature from the Fuel Handling Area Ventilation system control circuit, as well as the requirement to test that feature. The new surveillance will also require verification of system line up every 24 hours during fuel movement or crane operation to ensure system flow through the HEPA-charcoal filter train.

Date of issuance: June 14, 2000.

Effective date: As of the date of issuance, and shall be implemented within 60 days.

Amendment Nos.: 231 & 211.

Facility Operating License Nos. DPR–70 and DPR–75: The amendments revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** June 2, 1999 (64 FR 29715). The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated June 14, 2000.

No significant hazards consideration comments received: No.

South Carolina Electric & Gas Company, South Carolina Public Service Authority, Docket No. 50–395, Virgil C. Summer Nuclear Station, Unit No. 1, Fairfield County, South Carolina

Date of application for amendment: May 17, 1999.

Brief description of amendment: The proposed changes would revise the required minimum contained volume of the condensate storage tank from 172,700 gallons of water to 179,850 gallons of water.

Date of issuance: July 7, 2000.

Effective date: July 7, 2000.

Amendment No.: 145.

Facility Operating License No. NPF–12: Amendment revises the Technical Specifications.

Date of initial notice in ***Federal Register:*** June 16, 1999 (64 FR 32290).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 7, 2000.

No significant hazards consideration comments received: No.

Southern California Edison Company, et al., Docket Nos. 50–361 and 50–362, San Onofre Nuclear Generating Station, Units 2 and 3, San Diego County, California

Date of application for amendments: December 2, 1999, as supplemented May 16 and June 16, 2000 (PCN–506).

Brief description of amendments: These amendments approve changes to Technical Specifications, Section 5.0, ''Administrative Controls,'' and the Environmental Protection Plan.

Date of issuance: July 7, 2000.

Effective date: July 7, 2000, to be implemented within 30 days of issuance.

Amendment Nos.: Unit 2–168; Unit 3–159.

Facility Operating License Nos. NPF–10 and NPF–15: The amendments revised the Technical Specifications and the Environmental Protection Plan.

Date of initial notice in ***Federal Register:*** December 29, 1999 (64 FR 73096). The May 16 and June 16, 2000, letters provided additional information and clarifications that were within the scope of the original **Federal Register** notice and did not change the staff's initial proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated July 7, 2000.

No significant hazards consideration comments received: No.

Vermont Yankee Nuclear Power Corporation, Docket No. 50–271, Vermont Yankee Nuclear Power Station, Vernon, Vermont

Date of application for amendment: October 18, 1999, as supplemented May 11, 2000.

Brief description of amendment: The amendment revises the Technical Specifications to require a revised activated charcoal testing methodology in accordance with the guidance provided by Generic Letter 99–02, ''Laboratory Testing of Nuclear Grade Activated Charcoal.''

Date of Issuance: July 11, 2000.

Effective date: As of its date of issuance, and shall be implemented within 60 days.

Amendment No.: 189.

Facility Operating License No. DPR–28: Amendment revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** November 17, 1999 (64 FR 62716).

The May 11, 2000, supplement did not expand the scope of the application as initially noticed, or change the proposed no significant hazards consideration determination. The Commission's related evaluation of this amendment is contained in a Safety Evaluation dated July 11, 2000.

No significant hazards consideration comments received: No.

Dated at Rockville, Maryland, this 19th day of July 2000.

For the Nuclear Regulatory Commission.

John A. Zwolinski,

Director, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 00–18771 Filed 7–25–00; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NUREG–1620]

Review of A Reclamation Plan For Mill Tailings Sites Under Title II of the Uranium Mill Tailings Radiation Control Act; Final Standard Review Plan

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of availability.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) has published the Final Standard Review Plan for Review of a Reclamation Plan for Mill Tailings Sites Under Title II of the Uranium Mill Tailings Radiation Control Act (NUREG–1620). An NRC source and byproduct material license is required under the provisions of Title 10 of the Code of Federal Regulations, part 40 (10 CFR part 40), Domestic Licensing of Source Material, in conjunction with uranium or thorium milling, or with byproduct material at sites formerly associated with such milling. An applicant for a new reclamation plan, or for the renewal or amendment of an existing license, is required to provide detailed information on the facilities, and procedures to be used, and if appropriate, an environmental report that discusses the effect of proposed operations on public health and safety and on the environment. This information is used by Nuclear Regulatory Commission staff to determine whether the proposed activities will be protective of public health and safety and the environment. The standard review plan provides guidance to NRC staff for the review of reclamation plans while ensuring consistency and uniformity among the staff reviews. Each section in the review plan provides detailed review guidance on subject matter required in a standard reclamation plan. The review plan is intended to improve the understanding of the staff review process by interested members of the public and the uranium recovery industry. The final version includes updates based on public comment on the draft Standard Review Plan for the Review of a Reclamation Plan for Mill Tailings Sites Under Title II of the Uranium Mill Tailings Radiation Control Act.

Availability: Copies of NUREG–1620 may be purchased from the Superintendent of Documents, U.S. Government Printing Office, PO Box 37082, Washington, DC 20402–9328. Copies are also available from the National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161. Paper and electronic copies are available for inspection and/or copying in the NRC Public Document Room, 2120 L Street, NW. Washington, DC. An electronic copy can be accessed for reading, searching, or copying under ''Technical Reports in the NUREG Series'' of the ''NRC Reference Library'' at the NRC Web site, (http://www.nrc.gov/NRC/NUREGS).

Dated at Rockville, Maryland, this 3rd day of July, 2000.

For the Nuclear Regulatory Commission.

Philip Ting,

Chief, Fuel Cycle Licensing Branch, Division of Fuel Cycle Safety and Safeguards Office of Nuclear Material Safety and Safeguards.

[FR Doc. 00–18919 Filed 7–25–00; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF MANAGEMENT AND BUDGET

Cumulative Report on Rescissions and Deferrals

July 1, 2000.

Section 1014(e) of the Congressional Budget and Impoundment Control Act of 1974 (Public Law 93–344) requires a monthly report listing all budget authority for the current fiscal year for which, as of the first day of the month, a special message had been transmitted to Congress.

This report gives the status, as of July 1, 2000, of three rescission proposals and two deferrals contained in one special message for FY 2000. The message was transmitted to Congress on February 9, 2000.

Rescissions (Attachments A and C)

As of July 1, 2000, three rescission proposals totaling $128 million have been transmitted to the Congress. Attachment C shows the status of the FY 2000 rescission proposals.

Deferrals (Attachments B and D)

As of July 1, 2000, $485 million in budget authority was being deferred from obligation. Attachment D shows the status of each deferral reported during FY 2000.

Information From Special Message

The special message containing information on the rescission proposals and deferrals that are covered by this cumulative report is printed in the edition of the **Federal Register** cited below: 65 FR 9017, Wednesday, February 23, 2000.

Jacob J. Lew,

Director.

Attachment A

STATUS OF FY 2000 RESCISSIONS

[In millions of dollars]

	Budgetary resources
Rescissions proposed by the President	128.0
Rejected by the Congress	
Pending before the Congress for more than 45 days (available for obligation)	−128.0
Currently before the Congress for less than 45 days	

Attachment B

STATUS OF FY 2000 DEFERRALS

[In millions of dollars]

	Budgetary resources
Deferrals proposed by the President	1,622,0
Routine Executive releases through July 1, 2000.	−1,137.2
(OMB/Agency releases of $1,153.3 million, partially offset by a cumulative postive adjustment of $16.1 million)	
Overturned by the Congress	
Currently before the Congress	484.8

ATTACHMENT C
Status of FY 2000 Rescission Proposals - As of July 1, 2000
(Amounts in thousands of dollars)

Agency/Bureau/Account	Rescission Number	Amounts Pending Before Congress		Date of Message	Previously Withheld and Made Available	Date Made Available	Amount Rescinded	Congressional Action
		Less than 45 days	More than 45 days					
DEPARTMENT OF ENERGY								
Atomic Energy Defense Activities								
Defense Environmental Restoration and Waste Management..	R00-1		13,000	2-9-00	*			
Energy Programs								
SPR Petroleum Account.....	R00-2		12,000	2-9-00	*			
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT								
Public and Indian Housing								
Housing Certificate Fund.....	R00-3		103,000	2-9-00	*			
TOTAL, RESCISSIONS.....			**128,000**					

* No funds were withheld.

ATTACHMENT D
Status of FY 2000 Deferrals - As of July 1, 2000
(Amounts in thousands of dollars)

Agency/Bureau/Account	Deferral Number	Amounts Transmitted: Original Request	Amounts Transmitted: Subsequent Change (+)	Date of Message	Releases(-): Cumulative OMB/ Agency	Releases(-): Congressionally Required	Congressional Action	Cumulative Adjustments	Amount Deferred as of 7-1-00
DEPARTMENT OF STATE									
Other									
United States Emergency Refugee and Migration Assistance Fund	D00-1	172,858		2-9-00	27,548				145,310
INTERNATIONAL ASSISTANCE PROGRAMS									
International Security Assistance									
Economic Support Fund	D00-2	1,449,159		2-9-00	1,125,790			16,133	339,502
TOTAL, DEFERRALS		**1,622,017**			**1,153,338**			**16,133**	**484,812**

[FR Doc. 00–18855 Filed 7–25–00; 8:45 am]
BILLING CODE 3110–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–43055; File No. SR–Phlx–98–43)]

Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Order Approving Proposed Rule Change and Notice of Filing and Order Granting Accelerated Approval to Amendment No. 4 to the Proposed Rule Change Amending Its Procedures Regarding Stop Order Bans and Requiring the Use of Account Identifiers for PACE Users

July 19, 2000.

1. Introduction

On November 18, 1998, the Philadelphia Stock Exchange, Inc. (''Phlx'' or ''Exchange'') submitted to the Securities and Exchange Commission (''SEC'' or ''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend its procedures regarding stop order and stop limit order bans and require the use of account identifiers for PACE users. On December 9, 1998, February 2, 1999, and July 14, 1999, respectively, the Exchange filed Amendments 1, 2, and 3 to the proposal with the Commission.[3]

The proposed rule change, including Amendments 1, 2, and 3, was published for comment in the **Federal Register** on September 1, 1999.[4] On July 17, 2000, the Exchange filed Amendment No. 4 to the proposal with the Commission.[5] No comments were received on the proposal. This notice and order approves the proposed rule change, as amended, and seeks comment from interested persons on Amendment No. 4.

II. Description of the Proposal

The Exchange has previously adopted circuit breaker rules, paralleling the rules of other exchanges.[6] At this time, the Exchange proposes, like other exchanges, to prohibit the entry of stop and stop limit orders during times of market stress.[7]

Proposed Rule 134 will establish a procedure prohibiting the entry of stop orders and stop limit orders whenever the primary market for a stock admitted to dealings on the Exchange institutes a stop and stop limit order ban. When the primary market institutes a stop and stop limit order ban, the Exchange will also ban such orders in the stock (or stocks) until such time as the ban in the primary market is lifted.

The Exchange will use the following procedures to implement a stop order ban. Following notice from the Consolidated Tape, the Exchange will announce to the floor and to PACE users that a stop order ban is in effect in a particular issue (or issues). the entry of stop and stop limit orders on the Phlx would be prohibited until the ban in the primary market is lifted and that information is disseminated on the Consolidated Tape. Any stop or stop limit orders residing on the specialist's book when a ban goes into effect for a stock that is subject to the ban may [8] be canceled by the Exchange with the approval of two Floor Officials and a market regulation officer.[9]

The Exchange believes that it is appropriate to ban stop orders and stop limit orders when the primary market institutes a ban because, in a violatile market, stop orders can accumulate at various prices and, if triggered, the stop orders may increase price fluctuations. Because other exchanges have adopted stop order ban procedures, Phlx is concerned that a migration of stop and stop limit orders to the Phlx could occur, thus causing a burden on Phlx specialists.

The Exchange also proposes requiring PACE [10] users to attach account identifiers on orders submitted through PACE. Among other things, this will allow the system to distinguish orders for the account of an individual investor from other orders. Specifically, Rule 229, Commentary .20 will require that all orders sent through PACE shall include the appropriate account designator. The following are acceptable account types: ''P''—principal order; [11] ''A''—agency; ''I''—individual investor; ''D''—program trade, non-index arbitrage for member/member organization; ''J''—program trade, index arbitrage for individual customers; ''K''—program trade, non-index arbitrage for individual customer; ''U''—program trade, index arbitrage for other agency; and ''Y''—program trade, non-index arbitrage for other agency. Orders for less than 2,099 shares with the account identifier of ''I'' would still be able to be entered during the duration of the ban. Other orders will be automatically rejected by the PACE System.

The Exchange believes that the proposed account identifiers will enhance efficiency and accuracy of audit trail information and will facilitate surveillance investigations by readily identifying a member's proprietary trades. More accurate audit trail information should also increase the effectiveness of the Exchange's surveillance procedures.[12] Member firms will be given notice following the approval of the proposal to enable them to comply with new order identification requirements.

The purpose of the proposed rule is to reduce selling pressure by preventing market professionals from entering stop and stop limit orders during a market sell-off as well as enhance market coordination of the circuit breaker rules. In turn, the Phlx believes that the proposal should help reduce market volatility. In addition, proposed Phlx Rule 134 should prevent the migration to stop orders from the primary markets to the Phlx in the case of extraordinary

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19B–4.

[3] *See* letter from Nandita Yagnik, Counsel, Phlx, to Michael Walinskas, Deputy Associate Director, Division of Market Regulation (''Division''), Commission, dated December 8, 1998 (''Amendment No. 1''); letter from Nandita Yagnik, Counsel, Phlx, to Michael Walinskas, Deputy Associate Director, Division, Commission, dated February 1, 1999 (''Amendment No. 2''); and letter from Nandita Yagnik, Counsel, Phlx, to Michael Walinskas, Associate Director, Division, Commission, dated July 13, 1999 (''Amendment No. 3'').

[4] Securities Exchange Act Release No. 41789 (August 25, 1999), 64 FR 47885.

[5] *See* Letter from Nandita Yagnick, Counsel, Phlx, to David Sieradzki, Special Counsel, Commission, dated July 14, 2000 (''Amendment No. 4''). The Commission has approved a proposed rule change (SR–NYSE–98–45) to eliminate the stop and stop limit order banunder Rule 80A. *See* Securities Exchange Act Release No. 41041 (Feb. 11, 1999), 64 FR 8424 (Feb. 19, 1999). As a result, in amendment No. 4, the Exchange eliminates references to stop and stop limit order bans occurring pursuant to NYSE Rule 80A.

[6] *See* Securities Exchange Act Release No. 39846 (April 9, 1998), 63 FR 18477 (April 15, 1998) (Order approving SR–PHLX–98–15).

[7] *See* Boston Stock Exchange Rules Chapter II, Section 35(b); and Chicago Stock Exchange Chapter IX, Rule 10B, .01(ii).

[8] *See* Amendment No. 2, *supra* note 3. The Commission notes that, pursuant to Boston Stock Exchange Rules Chapter II, Section 35 (b), any stop or stop limit orders residing on the specialist's book when a ban goes into effect for an individual stock will be canceled by the Exchange.

[9] *See* Amendment No. 2, *supra* note 3. In Amendment No. 3, the Exchange amended Rule 134(c)(iii) to codify factors to be considered in determining whether stop and stop limit orders on the book would be cancelled in the event that the Exchange institutes a stop order ban in an individual stock. These factors include: (1) If the primary market cancels stop orders residing on their book; on (2) other unusual conditions or circumstances. *See* Amendment No. 3, *supra,* note 3.

[10] PACE is an electronic order entry, delivery, and execution system which operates on the equity floor pursuant to Phlx Rule 229.

[11] *See* Amendment No. 1, *supra* note 3.

[12] Telephone conversation between Nandita Yagnik, Counsel, Phlx, and David Sieradzki, Special Counsel, Division, Commission, on July 21, 1999.

market volatility, which should prevent the transfer of market volatility to the Phlx. Thus, the Exchange believes that the proposal represents a reasonable effort and coordinated means to address potential strain on the market that may develop should the Exchange become inundated with such orders.

III. Discussion

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b).[13] Specifically, the Commission believes that the proposal is consistent with the Section 6(b)(5)[14] requirements that the rules of an exchange be designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts, and, in general, to protect investors and the public interest.[15]

The Exchange represents that proposed Rule 134 should prevent the migration of stop orders from the primary markets to the Exchange in the case of extraordinary market volatility, which should prevent the transfer of market volatility to the Phlx. The Commission believes that, by preventing the entry of stop and stop limit orders on the Phlx when such orders are prohibited on the primary market, the proposal may help to alleviate market volatility during times of market stress. As a result, the Commission finds that it is reasonable for the Exchange to ban the entry of stop and stop limit orders when the primary Exchange has issued a ban on such orders. In determining to approve the proposal, the Commission notes that, as amended, the proposed rule is substantially similar to the rules of the Boston Stock Exchange regarding stop and stop limit order bans.[16]

Regarding the use of account identifiers for PACE users, the Commission finds that the proposed identification codes may help to prevent fraudulent and manipulative acts by improving the accuracy and efficiency of audit trail information. Specifically, the Commission believes that the use of identifier codes should facilitate surveillance investigations by clearly identifying a members's own proprietary trading. In addition, more accurate audit trail information should increase the effectiveness of the Exchange's automated surveillance procedures and provide Exchange staff with a more comprehensive reconstruction of trading activity. Accordingly, the Commission finds that the proposed mandatory use of audit trail identifiers for orders sent through PACE is reasonable and consistent with the Act.

The Commission finds good cause for approving Amendment No. 4 prior to the thirtieth day after the date of publication of notice in the **Federal Register**. Amendment No. 4 simply eliminates references to stop and stop limit order bans pursuant to NYSE Rule 80A. As noted above, NYSE Rule 80A has been amended and no longer requires stop and stop limit order bans. As a result, the amendment does not raise any significant regulatory issues. Accordingly, the Commission finds good cause, consistent with Sections 6(b)(5)[17] and 19(b)(2)[18] of the Act, to approve Amendment No. 4 to the proposed rule change on an accelerated basis.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning Amendment No. 4, including whether Amendment No. 4 is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Phlx. All submissions should refer to File No. SR–PHLX–98–43 and should be submitted by August 16, 2000.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[19] that the proposed rule change (SR–Phlx–98–43) as amended, is approved and Amendment No. 4 to the proposed rule change is approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[20]

Jonathan G. Katz,

Secretary.

[FR Doc. 00–18882 Filed 7–25–00; 8:45 am]

BILLING CODE 8010–01–M

[13] 15 U.S.C. 78f(b).

[14] 15 U.S.C. 78f(b)(5).

[15] In approving this rule, the Commission has considered its impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[16] *See supra* note 8.

[17] 15 U.S.C. 78f(b)(5).

[18] 15 U.S.C. 78s(b)(2).

[19] 15 U.S.C. 78s(b)(2).

[20] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3271]

State of Minnesota; Amendment #2

In accordance with a notice from the Federal Emergency Management Agency, dated July 12, 2000, the above-numbered Declaration is hereby amended to establish the incident period for this disaster as beginning on May 17, 2000 and continuing through July 12, 2000.

All other information remains the same, *i.e.,* the deadline for filing applications for physical damage is August 29, 2000 and for economic injury the deadline is March 30, 2001.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: July 14, 2000.

Allan I. Hoberman,

Acting Associate Administrator for Disaster Assistance.

[FR Doc. 00–18838 Filed 7–25–00; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Region V Advisory Council Meeting; Public Meeting

The Midwestern States, Regulatory Fairness Board will hold a public hearing on September 11, 2000, 10:00 a.m., at Rock Valley College, Performing Art Center, located at 3301 North Mulford Road, Rockford, Illinois to receive comments and testimony from small businesses and representatives of trade associations concerning regulatory enforcement or compliance actions taken by federal agencies. Transcripts of these proceedings will be posted on the Internet. These transcripts are subject only to limited review by the National Ombudsman. For further information, call Elestine Harvey (312) 353–1744.

Bettie Baca,

Counselor to the Administrator/Public Liaison.

[FR Doc. 00–18840 Filed 7–25–00; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Region X Advisory Council Meeting; Public Meeting

The Northwestern States, Regulatory Fairness Board will hold a public hearing on September 26, 2000, 12:00 p.m., at Z. J. Loussac Library, AC Assembly Chamber, located at 3600 Denali Street, Anchorage, Alaska to receive comments and testimony from small businesses and representatives of trade associations concerning regulatory enforcement or compliance actions taken by federal agencies. Transcripts of these proceedings will be posted on the Internet. These transcripts are subject only to limited review by the National Ombudsman. For further information, call Elestine Harvey (312) 353–1744.

Bettie Baca,

Counselor to the Administrator/Public Liaison.

[FR Doc. 00–18839 Filed 7–25–00; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

[Public Notice 3372]

Bureau of Educational and Cultural Affairs Request for Proposals: NIS College and University Partnerships Program (NISCUPP)

SUMMARY: The Office of Global Educational Programs of the Bureau of Educational and Cultural Affairs in the Department of State announces an open competition for an assistance award program. Accredited, post-secondary educational institutions meeting the provisions described in IRS regulation 26 CFR 1.501c may apply to pursue institutional or departmental objectives in partnership with foreign counterpart institutions from the New Independent States with support from the NIS College and University Partnerships Program. These objectives should support the overall goals of the program: to support the transition of the New Independent States to democratic systems based on market economies, and to strengthen mutual understanding and cooperation between the United States and the New Independent States. The means for achieving these objectives may include teaching, scholarship, and professional outreach to professionals and other members of the communities served by the participating institutions.

Program Overview

Underlying the specific institutional objectives of projects funded by this program should be the goals of encouraging the growth of freedom and democracy through a deepened mutual understanding of fundamental issues and practical applications in the encouragement of civil society, economic stability and prosperity, or the free flow of information. Innovative strategies to address these underlying concerns in the pursuit of clearly defined institutional objectives are encouraged. Outreach from academic institutions to larger communities of citizens and practitioners to extend understanding about these issues is also encouraged.

The Bureau supports institutional linkages in higher education with partners from the New Independent States of the former Soviet Union through the NIS College and University Partnerships Program, for which this Request for Proposals invites applications for funding in FY2001. The Bureau also anticipates issuing a separate and additional Request for Proposals for a partnership program for community colleges interested in cooperating with institutions in some or all of the New Independent States. Eligible community colleges may apply for grants under either or both of the above competitions, but the Bureau will not give multiple awards for duplicate partnerships under these competitions.

The Bureau also supports institutional linkages in higher education with partners worldwide through the College and University Affiliations Program; the College and University Affiliations Program Request for Proposals was announced separately and has a deadline of November 13, 2000. Applicants interested in the Bureau's College and University Affiliations Program should contact the Bureau's Humphrey Fellowships and Institutional Linkages Branch at (202) 619-5289.

Applicant Objectives

While the benefits of the project to each of the participating institutions may differ significantly in nature and scope, proposals should outline well-reasoned strategies leading to specific, demonstrable changes at the department or institution in the NIS.

For example, proposals may describe the parameters and possible content of new courses, new research or teaching capacities or methodologies, new or revised curricula or programs, or other changes anticipated as a result of the project. Proposals to pursue a limited number of related thematic objectives at each institution are preferred to proposals addressing a large number of unrelated objectives.

Proposals must focus on curriculum, faculty, and staff development, as well as administrative reform, at the NIS partner institution(s) in one or more of these eligible disciplines. Projects should involve the development of new academic programs or the restructuring of existing programs, and should promote higher education's role in the transition to market economies and open democratic systems. Whenever feasible, participants should make their training and personnel resources and research results available to government, NGOs, and businesses.

Partner institutions may pursue their institutional objectives through exchanges of teachers, researchers, administrators or, in limited circumstances, students for any appropriate combination of teaching, consultation, research, and outreach, for periods ranging from one week to an academic year. The strategy for achieving project objectives may include exchange visits in either or both directions, but no single formula is anticipated for the duration, sequence, or number of these visits. Visits of one semester or more for participants from each of the institutional partners are strongly encouraged. To provide adequate time to meet institutional project objectives, the Program awards grants for periods of approximately three years.

Although strong budgetary and programmatic emphasis may be given to visits in one direction over another, the benefits of all these visits to the sending as well as the receiving sides should be clearly explained. Exchange visits for the purpose of attending conferences are not encouraged except in combination with other grant activities and in support of specific educational objectives at one or more of the participating institutions.

Proposals that realistically assess institutional capacities will be better able to justify the request for support.

Effective proposals will demonstrate that the proposed partnership institutions understand one another and are committed to support and cooperate with another in project implementation. Accordingly, proposals should reflect substantial awareness of the foreign as well as the U.S. partner(s).

If the proposed partnership would occur within the context of a previous or ongoing project, the proposal should explain how the request for Bureau funding would build upon the pre-existing relationship or complement previous and concurrent projects, which must be listed and described with details about the amounts and sources of external support. Previous projects

should be described in the proposal, and the results of the evaluation of previous cooperation efforts should be summarized.

Proposals should outline and budget for a methodology for project evaluation. The evaluation plan should include an updated assessment of the current status of each participating department's and institution's needs at the time of program inception; ongoing formative evaluation to allow for prompt corrective action; and, at the conclusion of the project, summative evaluation of the degree to which the project's objectives have been achieved together with observations about the project's influence within the participating institutions and their surrounding communities or societies. The final evaluation should also include recommendations about how to build upon project achievements, both with and without the Bureau's support. Evaluative observations by external consultants with appropriate subject or regional expertise are especially encouraged.

Costs

The commitment of all partner institutions to the proposed project should be reflected in the cost-sharing which they offer in the context of their respective institutional capacities. Although the contributions offered by U.S. and foreign institutions with relatively few resources may be less than those offered by other applicants, all participating institutions are expected to identify substantial costs to contribute. These costs may include the estimated costs of in-kind contributions for which funds are not exchanged. Consistent with the ''Review Criteria'' for this competition listed elsewhere in this document and with specific reference to ''Cost-Sharing'' and ''Institutional Commitment to Cooperation,'' proposed cost-sharing will be considered an important indicator of each participating institution's interest in the project and of the institution's potential to benefit from it.

Proposals must be submitted by the U.S. institutional partner and must include a letter of commitment from the foreign partner(s). The letters should be signed by persons authorized to commit institutional resources to the project. U.S. and foreign partner institutions are encouraged to consult about the proposed project with program office staff in Washington, DC.

The Bureau's support may be used to defray the costs of the exchange visits as well as the costs (up to a maximum of 20 percent of the total grant) of their administration at any partner institution, including administrative salaries and direct administrative costs but excluding indirect costs. Although grants will be issued to eligible U.S. colleges and universities, adequate provision for the administrative costs of the project at all partner institutions, including the foreign partner(s), is encouraged.

The proposal may include a request for funding to reinforce the activities of exchange participants through the establishment and maintenance of Internet and/or electronic mail communication facilities as well as through interactive technology or non-technology-based distance-learning programs. However, projects focusing primarily on technology or physical infrastructure development are not encouraged. Proposals that include Internet, electronic mail, and other interactive technologies should discuss how the foreign partner institution will support the costs of such technologies after the project ends. Applicants may propose other project activities not specifically anticipated in this solicitation if the activities reinforce exchange activities and their impact.

The maximum award in the FY2001 competition will be $300,000. Requests for smaller amounts are eligible. Budgets and budget notes should carefully justify the amounts requested. Grants awarded to organizations with less than four years of experience in conducting international exchange programs will be limited to $60,000. Grants are subject to the availability of funds for Fiscal Year 2001. The amount of funding available for proposals to the NIS College and University Partnerships Program in FY 2001 has not yet been determined. In FY 2000, 56 proposals were received under this competition. Of this number, approximately 20 proposals are anticipated to be funded.

Eligible Fields

The NIS College and University Partnership Program is limited to the following academic fields:

(1) law;

(2) business/accounting/trade;

(3) education/continuing education/educational administration;

(4) public administration/public policy analysis;

(5) journalism/communications; and

(6) social, political, or economic sciences

U.S. Institution and Participant Eligibility

In the United States, participation in the program is open to accredited two- and four-year colleges and universities, including graduate schools. Applications from community colleges, minority-serving institutions, undergraduate liberal arts colleges, research universities, and combinations of these types of institutions are eligible. Applications from consortia or other combinations of U.S. colleges and universities are eligible. Secondary U.S. partners may include non-governmental organizations as well as non-profit service and professional organizations. The lead U.S. organization in the consortium or other combination of cooperating institutions is responsible for submitting the application. Each application must document the lead organization's authority to represent all U.S. cooperating partners.

With the exception of outside consultants reporting on the degree to which project objectives have been achieved, participants representing the U.S. institution who are traveling under the Bureau's grant funds must be faculty or staff from the participating institution(s). Participants representing the U.S. institution must be U.S. citizens.

Foreign Institution and Participant Eligibility

In other countries, participation is open to recognized institutions of post-secondary education. Secondary foreign partners may include relevant governmental and non-governmental organizations, as well as non-profit service and professional organizations.

With the exception of outside consultants reporting on the degree to which project objectives have been achieved, participants representing the foreign institutions must be faculty or staff of the foreign institution. Foreign participants must be citizens, nationals, or permanent residents of the country of the foreign partner and must be qualified to hold a valid passport and a U.S. J–1 visa.

Foreign Country and Location Eligibility

Foreign partners from the following countries are eligible:

Armenia;

Azerbaijan;

Belarus—foreign partners must be independent institutions (state universities are not eligible);

Georgia;

Kazakhstan;

Kyrgyzstan;

Moldova;

Russia—preference will be given to proposals which designate partner institutions outside Moscow and St. Petersburg; proposals for partnerships with institutions located in Moscow or St. Petersburg should clearly indicate

how those partnerships will have impact on other regions. Proposals which designate a partner institution in the Tomsk Region are encouraged.

Tajikistan—in consideration of the State Department Warning advising U.S. citizens to defer travel to Tajikistan, proposals should not include travel by U.S. participants to Tajikistan;

Turkmenistan;

Ukraine—preference will be given to proposals which designate partner institutions outside Kiev; proposals for partnerships with institutions located in Kiev should clearly indicate how those partnerships will have impact on other regions;

Uzbekistan.

Partnerships including a secondary foreign partner from a non-NIS country are eligible; however, with the exception noted below, the Bureau will not cover overseas non-NIS partner institution costs.

Central European Partners

The Bureau encourages proposals which build upon established collaboration between U.S. institutions and partners in Central and Eastern Europe in order to support faculty and curriculum development in the NIS and to promote regional cooperation. Within the context of this partnership agreement and under the guidance of the U.S. partner institution, funds may be budgeted for the exchange of faculty between NIS institutions and institutions of higher learning in Central and Eastern Europe (applicants planning to submit proposals for trilateral partnerships with a partner from Central and Eastern Europe are encouraged to contact the program office).

Ineligibility

A proposal may be deemed technically ineligible if:

(1) It does not fully adhere to the guidelines established herein and in the Solicitation Package;

(2) It is not received by the deadline;

(3) It is not submitted by the U.S. partner;

(4) One of the partner institutions is ineligible;

(5) The foreign country or geographic location is ineligible;

(6) The amount requested from the Bureau exceeds $300,000.

Grant-Making Authority

Overall grant-making authority for this program is contained in the Mutual Educational and Cultural Exchange Act of 1961, Public Law 87–256, as amended, also known as the Fulbright-Hays Act. The purpose of the Act is ''to enable the Government of the United States to increase mutual understanding between the people of the United States and the people of other countries * * *; to strengthen the ties which unite us with other nations by demonstrating the educational and cultural interests, developments, and achievements of the people of the United States and other nations * * * and thus to assist in the development of friendly, sympathetic and peaceful relations between the United States and the other countries of the world.'' The funding authority for the program cited above is provided through the Freedom for Russia and Emerging Eurasian Democracies and Open Markets Support Act of 1992 (Freedom Support Act).

Projects must conform with the Bureau's requirements and guidelines outlined in the solicitation package for this RFP, which can be obtained by following the instructions given in the section below entitled ''For Further Information.'' The ''Project Objectives, Goals, and Implementation'' (hereafter, POGI) and the ''Project Specific Instructions'' (hereafter, PSI), which contain additional guidelines, are included in the Solicitation Package. Proposals that do not follow RFP requirements and the guidelines appearing in the POGI and PSI may be excluded from consideration due to technical ineligibility.

Announcement Title and Number

All communications with the Bureau concerning this announcement should refer to the NIS College and University Partnerships Program and reference number ECA/A/S/U–01–06.

Deadline for Proposals

All copies must be received at the Bureau of Educational and Cultural Affairs by 5 p.m. Washington, D.C. time on Friday, January 19, 2001. Faxed documents will not be accepted, nor will documents postmarked on Friday, January 19, 2001 but received on a later date.

Approximate program dates: Grant activities should begin on or about August 15, 2001.

Program Duration: Approximately August 15, 2001–August 14, 2004.

FOR FURTHER INFORMATION: Contact the Humphrey Fellowships and Institutional Linkages Branch (College and University Affiliations Program); Office of Global Educational Programs; Bureau of Educational and Cultural Affairs; ECA/A/S/U, Room 349; U.S. Department of State; SA–44, 301 Fourth Street, SW.; Washington, DC 20547; phone: (202) 619–5289, fax: (202) 401–1433. Applicants may also send a message to affiliation@pd.state.gov to request a Solicitation Package.

The Solicitation Package includes more detailed award criteria; all application forms; and guidelines for preparing proposals, including specific criteria for preparation of the proposal budget. Please specify Bureau Program Officer Michelle Johnson (telephone: 202–619–4097, e-mail: johnsonmi@pd.state.gov) on all inquiries and correspondence regarding partnerships with institutions in Russia; please indicate Bureau Program Officer Jonathan Cebra (telephone: 202–619–4126, e-mail: jcebra@pd.state.gov) on all inquiries and correspondence regarding partnerships with institutions in Ukraine, Belarus, and Moldova; please indicate Bureau Program Officer Alanna Bailey (telephone: 202–619–6492, e-mail: abailey@pd.state.gov) on all inquiries and correspondence regarding partnerships with institutions in any other eligible country (in the Central Asia or Caucasus regions).

To Download a Solicitation Package Via Internet

The entire Solicitation Package may be downloaded from the Bureau's website at http://exchanges.state.gov/education/rfps. Please read all information before downloading.

Please specify ''NIS Colleges and Universities Partnerships Program Officer'' on all inquiries and correspondence. Prospective applicants should read the complete **Federal Register** announcement before addressing inquiries to the College and University Affiliations Program staff or submitting their proposals. Once the RFP deadline has passed, Department staff may not discuss this competition in any way with applicants until the Bureau proposal review process has been completed.

Submissions

Applicants must follow all instructions given in the Solicitation Package. The original and 10 copies of the complete application should be sent to: U.S. Department of State, SA–44, Ref: ECA/A/S/U–01–06, Program Management, ECA/EX/PM, Room 336, Bureau of Educational and Cultural Affairs, 301 4th Street, SW., Washington, DC 20547.

All copies should include the documents specified under Tabs A through E in the ''Project Objectives, Goals, and Implementation'' (POGI) section of the Solicitation Package. The documents under Tab F of the POGI should be submitted with the original application and with one of the ten copies.

Applicants must also submit the ''Executive Summary'' and ''Proposal Narrative'' sections of the proposal on a 3.5'' diskette, formatted for DOS. This material must be provided in ASCII text (DOS) format with a maximum line length of 65 characters. The Bureau will transmit these files electronically to the Public Affairs Sections at U.S. Embassies for review, with the goal of reducing the time needed to make the comments of overseas posts available in the Bureau's grant review process.

Diversity, Freedom and Democracy Guidelines

Pursuant to the Bureau's authorizing legislation, projects must maintain a non-political character and should be balanced and representative of the diversity of American political, social, and cultural life. ''Diversity'' should be interpreted in the broadest sense and encompass differences including, but not limited to ethnicity, race, gender, religion, geographic location, socio-economic status, and physical challenges. Applicants are strongly encouraged to adhere to the advancement of this principle both in program administration and in program content. Please refer to the review criteria under the ''Support for Diversity'' section for specific suggestions on incorporating diversity into the total proposal. Public Law 104–319 provides that ''in carrying out programs of educational and cultural exchange in countries whose people do not fully enjoy freedom and democracy,'' the Bureau ''shall take appropriate steps to provide opportunities for participation in such programs to human rights and democracy leaders of such countries.'' Proposals should account for advancement of this goal, in their program contents, to the full extent deemed feasible.

Review Process

The Bureau will acknowledge receipt of all proposals and will review them for technical eligibility. Proposals will be deemed ineligible if they do not fully adhere to the guidelines stated herein and in the Solicitation Package. All eligible proposals will be evaluated by independent external reviewers.

The independent external reviewers, who will be professional, scholarly, or educational experts with appropriate regional and thematic knowledge, will provide recommendations and assessments for consideration by the Bureau. The Bureau will consider for funding only those proposals which are recommended for further consideration by the independent external reviewers.

Proposals will also be reviewed by Department staff as well as by the officers of the Office of the Coordinator of United States Assistance to the New Independent States and the public diplomacy sections of U.S. Embassies. Proposals may also be reviewed by the Office of the Legal Advisor or by other offices of the U.S. Department of State. Funding decisions will be made at the discretion of the Under Secretary for Public Diplomacy and Public Affairs. Final technical authority for assistance awards (grants or cooperative agreements) will reside with a contracts officer with competency for Bureau programs.

Review Criteria

All reviewers will use the criteria below to reach funding recommendations and decisions. Technically eligible applications will be reviewed competitively according to these criteria, which are not rank-ordered or weighted.

(1) Broad Significance of Institutional Objectives: Project objectives should have significant but realistically anticipated ongoing consequences for the participating institutions that will also contribute to the transition of the New Independent States to market economies and democratic societies.

(2) Clarity and Relevance of Project Objectives to Institutional Needs: Proposed projects should outline clearly formulated objectives that relate specifically to the needs of the participating institutions.

(3) Creativity and Feasibility of Project Implementation: Plan to achieve project objectives should demonstrate the feasibility of doing so during a three-year period by utilizing and reinforcing exchange activities realistically and with creativity.

(4) Institutional Commitment to Cooperation: Proposals should demonstrate significant understanding at each institution of its own needs and capacities and of the needs and capacities of its proposed partner(s), together with a strong commitment, during and after the period of grant activity, to cooperate with one another in the mutual pursuit of institutional objectives.

(5) Project Evaluation: Proposals should outline a methodology for determining the degree to which a project meets its objectives, both while the project is underway and at its conclusion. The final project evaluation should include an external component and should provide observations about the project's influence within the participating institutions as well as their surrounding communities or societies.

(6) Cost-effectiveness: Administrative and program costs should be reasonable and appropriate with cost-sharing provided by all participating institutions within the context of their respective capacities and as a reflection of their commitment to cooperate with one another in pursuing project objectives. Although indirect costs are eligible for inclusion among costs to be contributed by the applicant, contributions should not be limited to indirect costs.

(7) Support of Diversity: Proposals should demonstrate substantive support of the Bureau's policy on diversity by explaining how issues of diversity relate to project objectives for all institutional partners and how these issues will be addressed during project implementation. Proposals should also outline the institutional profile of each participating institution with regard to issues of diversity.

Notice

The terms and conditions published in this RFP are binding and may not be modified by any State Department representative. Explanatory information provided by the Department of State that contradicts published language will not be binding. Issuance of the RFP does not constitute an award commitment on the part of the Government. The Bureau reserves the right to reduce, revise, or increase proposal budgets in accordance with the needs of the program and the availability of funds. Awards made will be subject to periodic reporting and evaluation requirements.

Notification

Final awards cannot be made until funds have been appropriated by Congress, allocated and committed through internal Bureau procedures.

Dated: July 16, 2000.

Evelyn S. Lieberman,

Under Secretary for Public Diplomacy and Public Affairs, U.S. Department of State.

[FR Doc. 00–18931 Filed 7–25–00; 8:45 am]

BILLING CODE 4700–11–P

STATE JUSTICE INSTITUTE

Notice of Public Meeting

State Justice Institute

DATE: Saturday, July 29, 2000; 9 a.m.–5 p.m.

PLACE: Holiday Inn Rushmore Plaza, Rapid City, SD.

MATTERS TO BE CONSIDERED: Consideration of proposals submitted for Institute funding and internal Institute business.

Portions open to the public: All matters.

Portions closed to the public: None.

CONTACT PERSON: David Tevelin, Executive Director, State Justice Institute, 1650 King Street, Suite 600, Alexandria, VA 22314, (703) 684–6100.

David I. Tevelin,

Executive Director.

[FR Doc. 00–19003 Filed 7–24–00; 12:44 pm]

BILLING CODE 6820–SC–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[USCG 2000–7222]

Information Collection Under Review by the Office of Management and Budget (OMB): OMB Control Numbers 2115–0017, 2115–0611, 2115–0573, and 2115–0630

AGENCY: Coast Guard, DOT.

ACTION: Request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, this request for comments announces that the Coast Guard has forwarded four Information Collection Reports (ICRs) abstracted below to OMB for review and comment. Our ICRs describe the information that we seek to collect from the public. Review and comment by OMB ensure that we impose only paperwork burdens commensurate with our performance of duties.

DATES: Please submit comments on or before August 25, 2000.

ADDRESSES: Please send comments to both (1) The Docket Management System (DMS), U.S. Department of Transportation (DOT), room PL–401, 400 Seventh Street SW., Washington, DC 20590–0001, and (2) the Office of Information and Regulatory Affairs (OIRA), Office of Management and Budget (OMB), 725 17th Street NW., Washington, DC 20503, to the attention of the Desk Officer for the USCG.

Copies of the complete ICRs are available for inspection and copying in public docket USCG 2000–7222 of the Docket Management Facility between 10 a.m. and 5 p.m., Monday through Friday, except Federal holidays; for inspection and printing on the internet at *http://dms.dot.gov;* and for inspection from the Commandant (G–SII–2), U.S. Coast Guard, room 6106, 2100 Second Street S.W., Washington, DC, between 10 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Barbara Davis, Office of Information Management, 202–267–2326, for questions on this document; Dorothy Walker, Chief, Documentary Services Division, U.S. Department of Transportation, 202–366–9330, for questions on the docket.

SUPPLEMENTARY INFORMATION:

Regulatory History

This request constitutes the 30-day notice required by OMB. The Coast Guard has already published [65 FR 19952 (April 13, 2000)] the 60-day notice required by OMB. That request elicited no comments.

Request for Comments

The Coast Guard invites comments on the proposed collections of information to determine whether the collections are necessary for the proper performance of the functions of the Department. In particular, the Coast Guard would appreciate comments addressing: (1) The practical utility of the collections; (2) the accuracy of the Department's estimated burden of the collections; (3) ways to enhance the quality, utility, and clarity of the information that is the subject of the collections; and (4) ways to minimize the burden of collections on respondents, including the use of automated collection techniques or other forms of information technology.

Comments, to DMS or OIRA, must contain the OMB Control Numbers of all ICRs addressed. Comments to DMS must contain the docket number of this request, USCG 2000–7222. Comments to OIRA are best assured of having their full effect if OIRA receives them 30 or fewer days after the publication of this request.

Information Collection Requests

1. *Title:* Regattas and Marine Parades.

OMB Control Number: 2115–0017.

Type of Request: Extension of currently approved collection.

Affected Public: Sponsors of marine events .

Form(s): N/A.

Abstract: The Coast Guard needs to determine whether a marine event may present a substantial threat to the safety of human life on navigable waters and determine which measures are necessary to ensure the safety of life during the events. Sponsors must notify the Coast Guard of the event and provide additional information, as required. This is an efficient means for the Coast Guard to learn of the events and to address environmental impacts.

Annual Estimated Burden Hours: The estimated burden is 1,540 hours a year.

2. *Title:* Boat Owner's Report, Possible Safety Defect.

OMB Control Number: 2115–0611.

Type of Request: Extension of a currently approved collection.

Affected Public: Owners of recreational boats.

Forms: CG–5578.

Abstract: Owners of recreational boats or engines who believe their product contains a defect or fails to comply with safety standards can call the Coast Guard Infoline, which will send them a copy of the ''Boat Owner's Report'', or they can file the report on-line at the website for the Office of Boating Safety.

Annual Estimated Burden Hours: The estimated burden is 80 hours a year.

Frequency: One time.

3. *Title:* Labeling Requirements in 33 CFR Parts 181 and 183.

OMB Control Number: 2115–0573.

Type of Request: Extension of currently approved collection.

Affected Public: Manufacturers and importers of recreational boats.

Form(s): N/A.

Abstract: The collection of information requires manufacturers or importers of recreational boats to apply for serial numbers from the Coast Guard and to display various labels on these boats.

Annual Estimated Burden Hours: The estimated burden is 382,798 hours a year.

4. *Title:* International Safety Management Code Audit Reports.

OMB Control Number: 2115–0630.

Type of Request: Extension of currently approved collection.

Affected Public: Owners and operators of vessels, and organizations authorized to issue ISM Code certificates for the United States.

Form(s): N/A.

Abstract: The Coast Guard uses this information collection to determine the compliance status of U.S. vessels, subject to SOLAS 74, engaged in international trade. Organizations recognized by the Coast Guard conduct ongoing audits of vessels' and companies' safety-management systems.

Annual Estimated Burden Hours: The estimated burden is 3,650 hours a year.

Dated: July 19, 2000.

Daniel F. Sheehan,

Director of Information and Technology.

[FR Doc. 00–18898 Filed 7–25–00; 8:45 am]

BILLING CODE 4910–15–U

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD09–00–015]

Availability of Final Great Lakes Icebreaking Environmental Impact Statement

AGENCY: Coast Guard, DOT.

ACTION: Notice of Availability of Great Lakes Icebreaking Final Environmental Impact Statement (EIS).

SUMMARY: The Coast Guard announces the completion and availability of a final environmental impact statement analyzing icebreaking on the Great Lakes.

DATES: The Coast Guard expects to make a decision regarding icebreaking operations on the Great Lakes after the EIS has been available to the public for 30 days. The Coast Guard will publish a document announcing the decision in the **Federal Register**.

ADDRESSES: The Coast Guard's point of contact for the EIS is Mr. Frank Blaha at the U.S. Coast Guard Civil Engineering Unit, 1240 East Ninth Street Room 2179, Cleveland, Ohio 44199–2060, Telephone (216) 902–6258. A copy of the EIS will be sent to those individuals who submitted substantive comments on the draft EIS. Any other interested party may request a copy of the EIS by writing or calling the National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia, 22161, (800) 553–6847 and asking for document number PB 2000–105–877.

SUPPLEMENTARY INFORMATION:

Proposed Action

The Coast Guard proposes to continue its icebreaking operations on the Great Lakes.

Discussion of Announcement

On December 21, 1936, the President ordered the Coast Guard to keep ''open to navigation by means of icebreaking * * * channels and harbors in accordance with the reasonable demands of commerce.'' Executive Order 9,521 (1936) reprinted in 14 U.S.C. 81. Icebreaking is now one of the Coast Guard's primary duties. In the Great Lakes, most icebreaking has been performed in the same way, and by the same ship, since the Coast Guard Cutter MACKINAW was commissioned in 1944.

The National Environmental Policy Act (NEPA) was enacted in 1970. The law requires an EIS to be prepared when a proposed major federal action has a significant environmental impact. 42 U.S.C. 4332(2)(C). A ''proposal'' exists under NEPA's regulations ''at that stage in the development of an action when an agency * * * has a goal and is actively preparing to make a decision on one or more alternative means of accomplishing that goal.'' 40 CFR 1508.23. Environmental analyses of ongoing activities need only be discussed in an EIS when an operation undergoes a change which itself is a major federal action.

There is no proposal to make a major change in the Coast Guard's long-standing domestic icebreaking program on the Great Lakes. Instead, concerns were raised in 1993 by the U.S. Fish and Wildlife Service and the Michigan Department of Natural Resources that ship transits made possible by icebreaking could have an adverse environmental impact on wetlands, fish populations, and fish egg development. The Coast Guard met with representatives of these organizations and agreed to look into the matter. A resultant memorandum of understanding required the Coast Guard to ''update its EIS as required by NEPA concerning its icebreaking activities in the Great Lakes and in the St. Marys River.'' We also agreed to conduct 3–5 years of monitoring studies on fish spawning and emergent wetlands. The studies have been completed and they clearly demonstrate that icebreaking does not have the adverse environmental consequences suspected in 1993.

The EIS being made public today relies on those studies and finds that icebreaking has no significant impact on the Great Lakes environment. Publishing this final EIS satisfies the Coast Guard's 1993 commitment to update its EIS concerning Great Lakes icebreaking. We expect to make a decision regarding icebreaking operations on the Great Lakes after the EIS has been available to the public for 30 days.

Dated: July 17, 2000.

James D. Hull,

Rear Admiral, U.S. Coast Guard, Commander, Ninth Coast Guard District

[FR Doc. 00–18936 Filed 7–25–00; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

[USCG 2000–7672]

Establishment of Pilot Program to Exempt Certain Vessels From Inspection as Seagoing Motor Vessels

AGENCY: Coast Guard, DOT.

ACTION: Notice of pilot program.

SUMMARY: The Coast Guard establishes a pilot program to exempt certain seagoing motor vessels from the requirement that they be inspected. The program will give the Coast Guard an opportunity to assess whether current requirements for inspection are beneficial (and, if they are not, reduce or eliminate them), without jeopardizing safety. This notice announces implementation of the program, and establishes procedures for participation in the program.

DATES: Written requests for participation in the pilot program must arrive no later than November 13, 2000.

FOR FURTHER INFORMATION CONTACT: For questions on this Notice, contact LT Dean Firing, Domestic Vessel Compliance Division (G–MOC–1), U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593–0001, telephone 202–267–0514, fax 202–267–4394, e-mail: DFiring@comdt.uscg.mil.

SUPPLEMENTARY INFORMATION:

Background and Purpose

Subsection 412(b) of the Coast Guard Authorization Act of 1998 [Public Law 105–383] granted the Secretary of Transportation discretionary authority to establish a pilot program exempting certain seagoing motor vessels from the inspection requirements under 46 U.S.C. 3301(7). Under certain conditions, seagoing motor vessels of 300 gross tons or more, as measured under 46 U.S.C. chapter 143 or 145, may participate in the program as long as they do not (a) carry any cargo or passengers for hire; (b) engage in commercial service, commercial fisheries, or oceanographic research; or (c) engage in other than ''good-samaritan'' towing.

Although no treaties require recreational vessels in general to be inspected or certified, 46 U.S.C. 3301(7) requires seagoing motor vessels of 300 gross tons or more to be inspected and certificated by the Coast Guard, regardless of their functions, flags, or uses. Owners and operators of commercial, research, and recreational seagoing motor vessels face the same

requirements. Subsection 3301(7) has discouraged potential owners of these large recreational vessels from building, and actual owners from registering, such vessels in the United States. We expect the prospect of exemption provided by the pilot program to encourage the building and registering of such vessels here by reducing or eliminating the burden of inspection, without compromising safety. Participating vessels must follow all other applicable Federal, State, and local requirements such as those on loadlines, manning, and pollution prevention.

Owners and operators of vessels who would like to participate in the pilot program must submit requests in writing to the Coast Guard. We will evaluate requests case by case, considering the unique characteristics of each vessel. We will continue to inspect vessels that do not participate in the program. Instead of Certificates of Inspection, participating vessels will receive exemption letters from Commandant (G–MOC).

Owners or operators of four vessels have submitted requests in writing to participate in the pilot program. We are considering their requests and will consider all others submitted to us on or before November 13, 2000.

Which Vessels May Qualify to Participate in the Pilot Program?

Seagoing motor vessels of 300 gross tons or more, as measured under 46 U.S.C. chapter 143 or 145, may qualify to participate in the program, as long as they do not (a) carry any cargo or passengers for hire; (b) engage in commercial service, commercial fisheries, or oceanographic research; or (c) engage in other than ''good-samaritan'' towing.

How Do I Get an Exemption?

Written requests for vessels to participate in the pilot program must arrive on or before November 13, 2000. Send them to: Commandant, U.S. Coast Guard (G–MOC), U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593–0001.

The Commandant (G–MOC) will determine case by case whether vessels may participate. You should furnish enough information in your request to let the Commandant determine this. We may ask for more information; but you should furnish at least this much:

(a) A detailed description of the vessel, including its identification number, owner, and flag.

(b) A statement describing the intended use of the vessel. You do not have to include this statement if the vessel's Certificate of Documentation is endorsed only for recreation.

(c) A statement indicating that the vessel meets the qualifying conditions: does not carry any cargo or passengers for hire; engage in commercial service, commercial fisheries, or oceanographic research; or engage in other than ''good-samaritan'' towing.

(d) A statement indicating that the vessel meets requirements under 46 U.S.C. chapter 43 for recreational vessels, and related regulatory requirements for recreational boating. The vessel must also meet all other applicable statutes and rules such as those on loadlines, manning, and pollution.

How Do I Know Whether I Have Got an Exemption?

The Commandant (G–MOC) will notify you by letter if he approves your request. You will have to carry this letter onboard the vessel. An exemption will remain in effect as long as the vessel remains qualified. If the vessel's operating conditions do change, you must notify the Commandant (G–MOC) in writing within 30 days of their changing. The Commandant (G–MOC) will review them and determine whether the exemption is still valid.

When Will the Pilot Program Expire

Our authority to grant exemptions under this program expires November 13, 2000: Written requests to participate in the program must arrive on or before then. Any exemption granted will remain in effect as long as the vessel remains qualified. No vessel will remain qualified if it (a) carries any cargo or passengers for hire; (b) engages in commercial service, commercial fisheries, or oceanographic research; or (c) engages in other than ''good-samaritan'' towing.

Dated: July 19, 2000.

Joseph J. Angelo,

Director of Standards, Marine Safety and Environmental Protection.

[FR Doc. 00–18934 Filed 7–25–00; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–2000–24]

Petitions for Exemption, Summary of Petitions Received; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Ch. I), dispositions of certain petitions previously received, and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and must be received on or before August 16, 2000.

ADDRESSES: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rule Docket (AGC–200), Petition Docket No. _____, 800 Independence Avenue, SW., Washington, DC 20591.

The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC–200), Room 915G, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–3132.

FOR FURTHER INFORMATION CONTACT: Cherie Jack (202) 267–7271, Forest Rawls (202) 267–8033, or Vanessa Wilkins (202) 267–8029 Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR part 11).

Issued in Washington, DC, on July 21, 2000.

Gary A. Michel,

Acting Assistant Chief Counsel for Regulations.

Dispositions of Petitions

Docket No.: 28574
Petitioner: Federal Express Corporation
Section of the FAR Affected: 14 CFR 121.434(c)(1)(ii)
Description of Relief Sought/ Disposition: To permit FedEx to substitute a qualified and authorized check airman in place of an FAA

inspector to observe a qualifying pilot in command who is completing the initial or upgrade training specified in § 121.424 during at least one flight leg that includes a takeoff and a landing, subject to certain conditions and limitation.

Grant, 06/29/00, Exemption No. 6473B

Docket No.: 29025
Petitioner: Northwest Airlines, Inc.
Section of the FAR Affected: 14 CFR 121.434(c)(1)(ii)
Description of Relief Sought/ Disposition: To permit NWA to substitute a qualified and authorized check airman in place of an FAA inspector to observe a qualifying pilot in command who is completing the initial or upgrade training specified in § 121.424 during at least one flight leg that includes a takeoff and a landing, subject to certain conditions and limitations.

Grant, 06/29/00, Exemption No. 6782A

Docket No.: 26669
Petitioner: Evergreen International Airlines, Inc.
Section of the FAR Affected: 14 CFR 121.583(a)(8)
Description of Relief Sought/ Disposition: To permit up to three dependents of Evergreen employees, who are accompanied by an employee sponsor traveling on official business only and are trained and qualified in the operation of emergency equipment on Evergreen's Boeing 747 cargo aircraft, to be added to the list of persons specified in § 121.583(a)(8) that Evergreen is authorized to transport without complying with certain passenger-carrying airplane requirements of part 121.

Grant, 06/29/00, Exemption No. 6442B

Docket No.: 23753
Petitioner: Saudi Arabian Airlines Corporation
Section of the FAR Affected: 14 CFR 61.2, 63.2, and 67.12
Description of Relief Sought/ Disposition: To permit Saudia pilots to be examined for and issued U.S. certificates and ratings required to operate its fleet as if it were a certificated U.S. air carrier.

Grant, 06/29/00, Exemption No. 39131

Docket No.: 29861
Petitioner: Confederate Air Force, Inc.
Section of the FAR Affected: 14 CFR 91.315, 91.319(a), 119.5(g), and 119.21(a)
Description of Relief Sought/ Disposition: To permit CAF to operate its fleet of former military airplanes that hold either a limited airworthiness certificate or an experimental airworthiness certificate for the carriage of passengers on local educational flights for compensation or hire.

Grant, 06/27/00, Exemption No. 6802A

Docket No.: 22822
Petitioner: T.B.M., Inc. and Butler Aircraft Co.
Section of the FAR Affected: 14 CFR § 91.611
Description of Relief Sought/ Disposition: To permit TMB and BAC to conduct ferry flights with one engine inoperative on their McDonnell Douglas DC–6 and DC–7 airplanes without obtaining special flight permit for each flight.

Grant, 06/26/00, Exemption No. 5204E

Docket No.: 28573
Petitioner: FAA, Office of Aviation System Standards (AVN), Flight Inspection Program
Section of the FAR Affected: 14 CFR 135.251 and 135.255(a)
Description of Relief Sought/ Disposition: To permit AVN to use the drug and alcohol testing program mandated by Department of Transportation (DOT) Order 3910.1C, ''The Drug and Alcohol-Free Departmental Workplace,'' for its Flight Inspection Program management, pilot, and maintenance personnel in lieu of the drug and alcohol testing programs mandated by the Federal Aviation Regulations.

Grant, 06/26/00, Exemption No. 6484B

Docket No.: 29561
Petitioner: Loriar, Ltd.
Section of the FAR Affected: 14 CFR 121.139(a)
Description of Relief Sought/ Disposition: To permit Lorair to operate its Boeing 737–200 (B–737) airplane without carrying the appropriate parts of the maintenance manual aboard the airplane when it is away from its principal base of operations.

Denial, 06/28/00, Exemption No. 7256.

Docket No.: 29657
Petitioner: Constellation Historical Society and Global Aeronautical Foundation
Section of the FAR Affected: 14 CFR 91.529(b)
Description of Relief Sought/ Disposition: To permit CHS and GAF FEs to maintain currency in Constellation airplanes using and EBC program.

Grant, 06/28/00, Exemption No. 7255

Docket No.: 29870
Petitioner: American Eagle Airlines, Inc.
Section of the FAR Affected: 14 CFR 121.434(c)(1)(ii)
Description of Relief Sought/ Disposition: To permit American Eagle to substitute a qualified and authorized check airman in place of an FAA inspector to observe a qualifying PIC who is completing initial or upgrade training specified in §121.424 during at least on flight leg that includes a takeoff and a landing.

Grant, 06/14/00, Exemption No. 7252

Docket No.: 28582
Petitioner: Atlas Air, Inc.
Section of the FAR Affected: 14 CFR 121.583(a)(8)
Description of Relief Sought/ Disposition: To permit Atlas Air, Inc., to (1) operate B–747–400 series cargo airplanes under the terms of this exemption, (2) revising condition No. 7 to include B–747–400 series cargo airplanes, and and (3) extending its July, 31, 2000, termination date to July 31, 2002, unless sooner superseded or rescinded.

Grant, 06/14/00, Exemption No. 6487B

Docket No.: 28206
Petitioner: Silver Moon Aviation
Section of the FAR Affected: 14 CFR 135.143(c)(2)
Description of Relief Sought/ Disposition: To permit SMA to operate certain aircraft under part 135 without a TSO–C112 (Mode S) transponder installed in the aircraft.

Grant, 05/30/00, Exemption No. 6122B

Docket No.: 29955
Petitioner: Mr. Jonathan D. Ross
Section of the FAR Affected: 14 CFR 45.21(a), 45.25, and 45.29(a) and (b)
Description of Relief Sought/ Disposition: To permit Mr. Jonathan D. Ross to operate his RV–8 aircraft (Registration Nol. 207RV; Serial No. 80094) displaying 3-inch-high nationality and registration markings on the vertical tail surface and 18-inch-high markings on the top of the right wing and the bottom of the left wing instead of the 12-inch-high markings required by the regulation.

Denial, 5/23/00, Exemption No. 7230.

[FR Doc. 00–18895 Filed 7–25–00; 8:45 am]
BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–2000–25]

Petitions for Exemption; Summary of Petitions Received; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Ch. I), dispositions of certain petitions previously received, and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and must be received on or before August 16, 2000.

ADDRESSES: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rule Docket (AGC–200), Petition Docket No. _____, 800 Independence Avenue, SW., Washington, DC 20591.

The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC–200), Room 915G, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–3132.

FOR FURTHER INFORMATION CONTACT: Cherie Jack (202) 267–7271, Forest Rawls (202) 267–8033, or Vanessa Wilkins (202) 267–8029 Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of part 11 of the Federal Aviation Regulations (14 CFR part 11).

Issued in Washington, DC, on July 21, 2000.

Gary A. Michel,

Acting Assistant Chief Counsel for Regulations.

Dispositions of Petitions

Docket No.: 27672
Petitioner: Skydrive Chicago, Inc.
Section of the FAR Affected: 14 CFR 105.43(a)
Description of Relief Sought/ Disposition: To permit SCI to allow nonstudent foreign nationals to participate in SCI-sponsored parachute jumping events held at SCI's facilities without complying with the parachute equipment and packing requirements of § 105.43(a).
Grant, 07/10/00, Exemption No. 7275

Docket No.: 30030
Petitioner: Midcoast Aviation, Inc.
Section of the FAR Affected: 14 CFR 145.45(f)
Description of Relief Sought/ Disposition: To permit Midcoast to place and maintain its IPM in a number of fixed locations within its facilities in lieu of giving a copy of its IPM to each of its supervisory and inspection personnel.
Grant, 06/29/00, Exemption No. 7258

Docket No.: 28445
Petitioner: Aircraft Braking Systems Corporation
Section of the FAR Affected: 14 CFR 43.9(a)(4) and 43.11(a)(3), appendix B to part 43, and § 145.57(a)
Description of Relief Sought/ Disposition: To permit ABSC to use computer-generated electronic signatures in lieu of physical signatures to satisfy approval for return-to-service signature requirements.
Grant, 06/14/00, Exemption No. 6542B

Docket No.: 29819
Petitioner: Bombardier Aerospace
Section of the FAR Affected: 14 CFR 25.813(e)
Description of Relief Sought/ Disposition: To permit installation of interior doors between passenger compartments, on the BD–700–1A10 airplane.
Grant, 06/29/00, Exemption No. 7259

Docket No.: 29875
Petitioner: Airbus Industrie
Section of the FAR Affected: 14 CFR 25.857(e), §§ 25.785(d), 25.791, 25.807(c)(1), & (d)(1), 25.809(f)(1), 25.811(a), 25.812(g), 25.813(b), 25.857(e), and 25.1447(c)
Description of Relief Sought/ Disposition: To permit type certification of the Airbus Model A300F4–600R airplane, with provisions for the carriage of supernumeraries when the airplane is equipped with one floor level exit with escape slide within the occupied area.
Grant, 06/30/00, Exemption No. 7260

Docket No.: 28092
Petitioner: B2W Corporation
Section of the FAR Affected: 14 CFR 135.143(c)(2)
Description of Relief Sought/ Disposition: To permit B2W to operate certain aircraft under part 135 without a TSO–C112 (Mode S) transponder installed on those aircraft.
Grant, 05/23/00, Exemption No. 6083B

Docket No.: 30014
Petitioner: Mission Aviation Fellowship
Section of the FAR Affected: 14 CFR 135.251, 135.255, 135.353, and appendixes I and J to part 121
Description of Relief Sought/ Disposition: To permit MAF to conduct local sightseeing flights at Santa Monica Municipal Airport, Santa Monica, California, for a one-day community fundraising event on May 31, 2000, or alternately on June 1, 2000, for compensation of hire, without complying with certain anti-drug and alcohol misuse prevention requirements of part 135.
Grant, 05/23/00, Exemption No. 7225

Docket No.: 30047
Petitioner: Brookings Flying Club, Inc.
Section of the FAR Affected: 14 CFR 135.251, 135.255, and 135.353 and appendixes I and J to part 121
Description of Relief Sought/ Disposition: To permit Brookings to conduct local sightseeing flights at Brookings, Oregon airport for a one-day Airport Day Scholarship Fundraising event in May 2000, for compensation of hire, without complying with certain anti-drug and alcohol misuse prevention requirements of part 135.
Grant, 05/23/00, Exemption No. 7223

Docket No.: 30013
Petitioner: Mr. Guy Forshey
Section of the FAR Affected: 14 CFR 135.251, 135.255, 135.353, and appendixes I and J to part 121
Description of Relief Sought/ Disposition: To permit Mr. Forshey to conduct local sightseeing flights at Altoona-Blair County Airport, Martinsburg, PA, for a charitable cause on June 11, 2000, for compensation of hire, without complying with certain anti-drug and alcohol misuse prevention requirements of part 135.
Grant, 05/23/00, Exemption No. 7226

Docket No.: 29575
Petitioner: Air Wisconsin Airlines
Section of the FAR Affected: 14 CFR 121.344(b)(3)
Description of Relief Sought/ Disposition: To permit Air Wisconsin to operate 13 BAe–146 airplanes without installing the required, approved digital flight data recorder (DFDR) until the first heavy maintenance check after April 30, 2000.
Grant, 05/05/00, Exemption No. 6939B

Docket No.: 29930
Petitioner: Gulfshore Helicopters
Section of the FAR Affected: 14 CFR 135.143(c)(2)
Description of Relief Sought/ Disposition: To permit Gulfshore to operate certain aircraft under part 135 without a TSO–C112 (Mode S) transponder installed in the aircraft.
Grant, 03.24/00, Exemption No. 7155

Docket No.: 29989

Petitioner: Experimental Aircraft Association Chapter 1047
Section of the FAR Affected: 14 CFR 135.1(a)(5)
Description of Relief Sought Disposition: To permit EAA Chapter 1047 and the Tar River CAP to conduct local sightseeing flights at the Rocky Mount/Wilson Airport in Rocky Mount, NC, for their annual open house on May 6, 2000, for compensation or hire, without complying with certain anti-drug and alcohol misuse prevention requirements of part 135.
Grant, 05/05/00, Exemption No. 7198

Docket No.: 29722.
Petitioner: Flight Express.
Section of the FAR Affected: 14 CFR 135.243(c)(2).
Description of Relief Sought/ Disposition: To permit Flight Express to allow each of its pilots to act as pilot in command under instrument flight rules with a minimum of 800 hours of total flight time, including 330 hours of cross-country flight time, 70 hours of night flight time, and 50 hours of actual or simulated instrument flight time of which 30 hours were in actual flight, in lieu of the flight-time requirements.
Denial, 05/05/00, Exemption No. 7199

Docket No.: 29661
Petitioner: Experimental Aircraft Association, Small Aircraft Manufacturers Association and National Association of Flight Instructors.
Section of the FAR Affected: 14 CFR 91.319(a)(2).
Description of Relief Sought/ Disposition: To permit EEA, SAMA, and NAFI members who own aircraft with an experimental certificate to be compensated for the use of the aircraft in transition training conducted by authorized flight instructors.
Grant, 04/06/00, Exemption No. 7162

Docket No.: 25177.
Petitioner: United States Coast Guard.
Section of the FAR Affected: 14 CFR 91.117(b) and (c), 91.119(c), 91.159(a) and 91.209(a).
Description of Relief Sought/ Disposition: To permit USCG to conduct air operations in support of drug law enforcement and drug traffic interdiction without meeting part 91 provisions governing: (1) Aircraft speed, (2) minimum safe altitudes, (3) cruising operations for flights conducted under visual flight rules (VFR), and (4) use of aircraft lights.
Grant, 05/19/00, Exemption No. 5231E

[FR Doc. 00–18896 Filed 7–25–00; 8:45 am]
BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–2000–26]

Petitions for Exemption; Summary of Petitions Received; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of disposition of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Ch. I), dispositions of certain petitions previously received, and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and must be received on or before August 16, 2000.

ADDRESSES: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rule Docket (AGC–200), Petition Docket No. ____, 800 Independence Avenue, SW., Washington, DC 20591.

The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC–200), Room 915G, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–3132.

FOR FURTHER INFORMATION CONTACT: Cherie Jack (202) 267–7271, Forest Rawls (202) 267–8033, or Vanessa Wilkins (202) 267–8029 Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of part 11 of Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, DC, on July 21, 2000.

Gary A. Michel,

Acting Assistant Chief Counsel for Regulations.

Dispositions of Petitions

Docket No.: 29874
Petitioner: Alaska Flying Network Flying Club
Section of the FAR Affected: 14 CFR 135.251, 135.255, 121.353, and appendixes I and J of part 121
Description of Relief Sought/ Disposition: To permit AFN Flying Club to conduct local sightseeing flights at an airport in the vicinity of Kenai, AK, to raise funds for local charities, for compensation or hire, without complying with certain anti-drug and alcohol misuse prevention requirements of part 135.
Grant, 7/11/00, Exemption No. 7274

Docket No.: 29257
Petitioner: Priority Air, Inc.
Section of the FAR Affected: 14 CFR 135.143(c)(2)
Description of Relief Sought/ Disposition: To permit Priority Air to operate certain aircraft under part 135 without a TSO–C112 (Mode S) transponder installed on those aircraft.
Grant, 07/07/00, Exemption No. 6801A

Docket No.: 30037
Petitioner: Canton Airport Board
Section of the FAR Affected: 14 CFR 135.251, 135.255, 135.353, and appendixes I and J of part 121
Description of Relief Sought/ Disposition: To permit CAB to conduct local sightseeing flights at Ellingson Field, Canton, South Dakota, for the annual Canton Car Show on July 24, 2000, for compensation or hire, without complying with certain anti-drug and alcohol misuse prevention requirements of part 135.
Grant, 07/07/00, Exemption No. 7273

Docket No.: 30102
Petitioner: Corvallis Chapter of the Oregon Pilots Association
Section of the FAR Affected: 14 CFR 135.251, 135.255, 135.353, and appendixes I and J to part 121
Description of Relief Sought/ Disposition: To permit CCOPA to conduct local sightseeing flights at Corvallis Municipal Airport for a two-day air fair in July 2000, for compensation or hire, without complying with certain anti-drug and alcohol misuse prevention requirements of part 135.
Grant, 07/06/00, Exemption No. 7270

Docket No.: 30095
Petitioner: Experimental Aircraft Association Chapter 597

Section of the FAR Affected: 14 CFR 91.315, 91.319(a), 135.251, 135.255, 135.353, and appendixes I and J to part 121
Description of Relief Sought/Disposition To permit EAA Chapter 597 to conduct local sightseeing flights at Howard Nixon Memorial Airport, Chesaning, Michigan, for three one-day charitable events, one each in July 2000, September 2000, and October 2000, supporting the Chesaning Sportplane Association and the Young Eagles program, for compensation or hire, without complying with certain anti-drug and alcohol misuse prevention requirements of part 135.
Grant, 07/06/00, Exemption No. 7679

Docket No.: 30032
Petitioner: Corvallis Aviation Inc. dba Metro Helicopters Inc.
Section of the FAR Affected: 14 CFR 135.143(c)(2)
Description of Relief Sought/ Disposition: To permit MHI to operate certain aircraft under part 135 without a TSO–C112 (Mode S) transponder installed in the aircraft.
Grant, 07/05/00, Exemption No. 7266

Docket No.: 30045
Petitioner: Master Track Inc.
Section of the FAR Affected: 14 CFR 135.143(c)(2)
Description of Relief Sought/ Disposition: To permit MTI to operate certain aircraft under part 135 without a TSO–C112 (Mode S) transponder installed in the aircraft.
Grant, 07/05/00, Exemption No. 7268

Docket No.: 30033
Petitioner: Alpine Air Inc.
Section of the FAR Affected: 14 CFR 135.143(c)(2)
Description of Relief Sought/ Disposition: To permit AAI to operate aircraft under part 135 without a TSO–C112 (Mode S) transponder installed in the aircraft.
Grant, 07/05/00, Exemption No. 7267

Docket No.: 30090
Petitioner: Lance Air Flight Training Center
Section of the FAR Affected: 14 CFR 135.251, 135.255, 135.353, and appendixes I and J to part 121
Description of Relief Sought/ Disposition: To permit Lance Air to conduct local sightseeing flights at four airshow events in 2000,for compensation or hire, without complying with certain anti-drug and alcohol misuse prevention requirements of part 135.
Grant, 07/03/00, Exemption No. 7262

Docket No.: 30087
Petitioner: Belford Flying Service
Section of the FAR Affected: 14 CFR 135.251, 135.255, 135.353, and appendixes I and J to part 121
Description of Relief Sought/ Disposition: To permit Belford to conduct local sightseeing flights at Fairfield County Airport, Lancaster, Ohio, for a three-day charitable event in July 2000, for compensation or hire, without complying with certain anti-drug and alcohol misuse prevention requirements of part 135.
Grant, 07/03/00, Exemption No. 7265

Docket No.: 30067
Petitioner: Alaska Air Transit
Section of the FAR Affected: 14 CFR 135.143(c)(2)
Description of Relief Sought/ Disposition: To permit AAT to operate certain aircraft under part 135 without a TSO–C112 (Mode S) transponder installed in the aircraft.
Grant, 07/03/00, Exemption No. 7261

Docket No.: 30099
Petitioner: Hastings Flying Association
Section of the FAR Affected: 14 CFR 135.251, 135.255, 135.353, and appendixes I and J to part 121
Description of Relief Sought/ Disposition: To permit Hastings to conduct local sightseeing flights at Hastings-Barry County Airport, Hastings, MI, for a one-day fundraising event in July 2000, for compensation or hire, without complying with certain anti-drug and alcohol misuse prevention requirements of part 135.
Grant, 07/03/00, Exemption No. 7263

Docket No.: 30040
Petitioner: Adams, Jerry L *et al.*
Section of the FAR Affected: 14 CFR 121.383(c)
Description of Relief Sought/ Disposition: To permit those individual to act as pilots in operations conducted under part 121 after reaching their 60th birthdays.
Denial, 07/03/00, Exemption No. 7264

Docket No.: 29651
Petitioner: Experimental Aircraft Association, Inc.
Section of the FAR Affected: 14 CFR 135.251, 135.255, and 135.353, and appendixes I and J to part 121
Description of Relief Sought/ Disposition: To permit EAA members to conduct local sightseeing flights at charity or community events, for compensation or hire, without complying with certain anti-drug and alcohol misuse prevention requirements of part 135.
Grant, 06/29/00, Exemption No. 7111A

Docket No.: 26103
Petitioner: Northwest Seaplanes, Inc.
Section of the FAR Affected: 14 CFR 135.203(a)(1)
Description of Relief Sought/ Disposition: To permit Northwest Seaplanes to conduct part 135 operations outside of controlled airspace, over water, at an altitude below 500 feet above the surface.
Grant, 06/29/00, Exemption No. 6461C

[FR Doc. 00–18897 Filed 7–25–00; 8:45 am]
BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33893]

The Blacklands Railroad Company—Operation Exemption—Northeast Texas Rural Rail Transportation District

The Blacklands Railroad Company, a Class III rail carrier, has filed a verified notice of exemption under 49 CFR 1150.41 to acquire from Northeast Texas Rural Rail Transportation District (NETEX) the rights to operate over approximately 45 miles of rail line in the State of Texas as follows: (1) Approximately 34.59 miles of rail line owned by NETEX beginning at milepost 524.0, located approximately 6.2 miles west of Sulphur Springs, and proceeding east to milepost 489.41, at the eastern county line of Franklin County; and (2) approximately 10.41 miles of rail line owned by the Union Pacific Railroad Company (UP) from milepost 489.41 to milepost 479.0 pursuant to trackage rights acquired by NETEX for the purpose of interchanging with UP.[1]

The transaction was scheduled to be consummated on or after July 17, 2000.

If the verified notice contains false or misleading information, the exemption is void *ab initio.* Petitions to reopen the proceeding to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 33893, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW, Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Jo A.

[1] This transaction is related to a concurrently filed verified notice of exemption in STB Finance Docket No. 33892, *Northeast Texas Rural Rail Transportation District—Acquisition Exemption—Lines of the Union Pacific Railroad Company,* wherein NETEX will acquire UP's line between milepost 524.0 and 489.41, and incidental trackage rights over UP's line between 489.41 and 479.0.

DeRoche, Esq., Weiner, Brodsky, Sidman & Kider, P.C., 1300 19th Street, NW, Fifth Floor, Washington, DC 20036–1609.

Board decisions and notices are available on our website at ''WWW.STB.DOT.GOV.''

Decided: July 19, 2000.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 00–18799 Filed 7–25–00; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33892]

Northeast Texas Rural Rail Transportation District—Acquisition Exemption—Lines of the Union Pacific Railroad Company

The Northeast Texas Rural Rail Transportation District (NETEX), a political subdivision of the State of Texas, Class III rail carrier, has filed a notice of exemption under 49 CFR 1150.41 to acquire pursuant to an agreement entered into with the Union Pacific Railroad Company (UP), as indicated in its notice, approximately 34.6 miles of UP's rail line from milepost 524.0 west of Sulphur Springs, TX, proceeding easterly to milepost 489.41 at the eastern county line of Franklin County, TX, and NETEX further indicates that, pursuant to a trackage rights agreement with UP, it will also acquire incidental trackage rights over approximately 10.41 miles of UP's line between milepost 489.41 and milepost 479.0 for the purpose of interchanging traffic with UP. NETEX certifies that its projected revenues will not result in the creation of a Class II or Class I rail carrier.[1]

NETEX currently owns a connecting rail line of approximately 31 miles from milepost 555.0 near Greenville, TX, to milepost 524.0, just west of Sulphur Springs, and possesses trackage rights over UP's line between milepost 524.0 and milepost 517.0. Until now, the trackage rights over this 7-mile segment appear to have been limited to interchanging and switching traffic at Sulphur Springs.[2] NETEX currently contracts with BLRR for operations over these lines.[3]

The transaction was scheduled to be consummated on or after July 17, 2000.

This transaction is related to STB Finance Docket No. 33893, *The Blacklands Railroad Company—Operation Exemption—Lines of Northeast Texas Rural Rail Transportation Company*, wherein BLRR seeks to conduct common carrier freight operations over the line being acquired by NETEX.

If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 33892, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423–0001. In addition, one copy of each pleading must be served on Harold Curtis, Jr., 2708 Washington Street, Greenville, TX 75401.

Board decisions and notices are available on our website at ''WWW.STB.DOT.GOV.''

Decided: July 19, 2000.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 00–18800 Filed 7–25–00; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Ex Parte No. 552 (Sub-No. 4)]

Railroad Revenue Adequacy—1999 Determination

AGENCY: Surface Transportation Board.

ACTION: Notice of decision.

SUMMARY: On July 26, 2000, the Board served a decision announcing the 1999 revenue adequacy determinations for the Nation's Class I railroads. One carrier (Grand Trunk Western Railroad Inc.) is found to be revenue adequate.

EFFECTIVE DATE: This decision is effective July 26, 2000.

FOR FURTHER INFORMATION CONTACT: Leonard J. Blistein, (202) 565–1529. [TDD for the hearing impaired: (202) 565–1695.]

SUPPLEMENTARY INFORMATION: The Board is required to make an annual determination of railroad revenue adequacy. A railroad will be considered revenue adequate under 49 U.S.C. 10704(a) if it achieves a rate of return on net investment equal to at least the current cost of capital for the railroad industry for 1999, determined to be 10.8% in *Railroad Cost of Capital—1999,* STB Ex Parte No. 558 (Sub-No. 3) (STB served June 12, 2000). In this proceeding, the Board applied the revenue adequacy standards to each Class I railroad, and it found one carrier, Grand Trunk Western Railroad Inc., to be revenue adequate.

Additional information is contained in the Board's formal decision. To purchase a copy of the full decision, write to, call, or pick up in person from: Da-To-Da Office Solutions, Room 405, 1925 K Street, N.W., Washington, DC 20423. Telephone: (202) 466–5530. [Assistance for the hearing impaired is available through TDD services (202) 565–1695.] The decision is also available on the Board's internet site, www.stb.dot.gov.

Environmental and Energy Considerations

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

Regulatory Flexibility Analysis

Pursuant to 5 U.S.C. 603(b), we conclude that our action in this proceeding will not have a significant economic impact on a substantial number of small entities. The purpose and effect of the action is merely to update the annual railroad industry revenue adequacy finding. No new reporting or other regulatory requirements are imposed, directly or indirectly, on small entities.

Decided: July 19, 2000.

By the Board, Chairman Morgan, Vice Chairman Burkes, and Commissioner Clyburn.

Vernon A. Williams,

Secretary.

[FR Doc. 00–18881 Filed 7–25–00; 8:45 am]

BILLING CODE 4915–00–P

[1] NETEX states that the Blacklands Railroad Company (BLRR) is also a party to the trackage rights agreement.

[2] *See East Texas Central Railroad, Inc.—Operation Exemption—Northeast Texas Rural Rail Transportation District*, STB Finance Docket No. 32841 (Sub-No. 1) (STB served Sept. 27, 1996).

[3] *See The Blacklands Railroad Company—Operation Exemption—Lines of Northeast Texas Rural Rail Transportation District*, STB Finance Docket No. 33708 (STB served Feb. 16, 1999).

DEPARTMENT OF THE TREASURY

Office of the Under Secretary for Domestic Finance; Proposed Collection; Comment Request

ACTION: Notice and request for comments.

SUMMARY: Currently, the Office of the Under Secretary for Domestic Finance of the Department of the Treasury is soliciting comments concerning requests for its determination that certain activities are financial in nature pursuant to the Gramm-Leach-Bliley Act, Public Law 106–102, 113 Stat. 1338 (GLBA). The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections for such determinations, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments should be received on or before September 25, 2000, to be assured of consideration.

ADDRESSES: Direct all written comments to New Financial Activities Request, Office of Financial Institutions Policy, 1500 Pennsylvania Ave., N.W., Room SC37, Washington, D.C. 20220.

FOR FURTHER INFORMATION CONTACT: Joan Affleck-Smith, Director, Office of Financial Institutions Policy, (202) 622–0191, or Gary Sutton, Senior Banking Counsel, (202) 622–1976.

SUPPLEMENTARY INFORMATION:

Title: Requests for Determination of Activities Financial in Nature.

OMB Number: 1505–0174.

CFR Cite: 12 CFR 1501.1.

Abstract: Section 121 of the GLBA authorizes the Secretary of the Treasury (Secretary), in consultation with the Board of Governors of the Federal Reserve System, to determine whether activities are financial in nature or incidental to a financial activity, and therefore permissible for a financial subsidiary of a national bank. National banks and other interested parties may submit requests that the Secretary determine that an activity is financial in nature, including in such request information to enable the Secretary to make such a determination.

Current Actions: The Secretary may notify those requesting such a determination that an activity is or is not financial in nature.

Type of Review: Extension.

Affected Public: National banks; other interested parties.

Estimated Number of Respondents: 20.

Estimated Time Per Respondent: 20 hours.

Estimated Total Annual Burden Hours: 400 hours.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: July 20, 2000.

Joan Affleck-Smith,

Director, Office of Financial Institutions Policy.

[FR Doc. 00–18910 Filed 7–25–00; 8:45 am]

BILLING CODE 4810–25–P

DEPARTMENT OF THE TREASURY

Submission for OMB review; Comment Request

July 19, 2000.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before August 25, 2000 to be assured of consideration.

Bureau of Alcohol, Tobacco and Firearms (BATF)

OMB Number: 1512–0018.

Form Number: ATF F 6, Part II (5330.3B).

Type of Review: Extension.

Title: Application and Permit for Importation of Firearms, Ammunition and Implements of War.

Description: This information collected is needed to determine whether firearms, ammunition and implements of war are eligible for importation into the United States. This information is used to secure authorization to import such articles. Forms are used by persons who are members of the United States Armed Forces.

Respondents: Individuals or households, Business of other for-profit, Federal Government, State, Local or Tribal Government.

Estimated Number of Respondents: 9,000.

Estimated Burden Hours Per Respondent: 30 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 4,500 hours.

OMB Number: 1512–0215.

Recordkeeping Requirement ID Number: ATF REC 5110/10.

Form Number: ATF F 5110.75.

Type of Review: Extension.

Title: Alcohol Fuel Plants (AFP) Records, Reports and Notices.

Description: Data is necessary (1) To determine that persons are qualified to produce alcohol for fuel purposes and to identify such persons, (2) to account for distilled spirits produced and verify its proper disposition and (3) to keep registrations current and evaluate permissible variations from prescribed procedures.

Respondents: Business of other for-profit, Farms.

Estimated Number of Respondents/ Recordkeepers: 871.

Estimated Burden Hours Per Respondent/Recordkeeper: 1 hour.

Frequency of Response: Annually.

Estimated Total Reporting/ Recordkeeping Burden: 871 hours.

OMB Number: 1512–0352.

Recordkeeping Requirement ID Number: ATF REC 170/1.

Type of Review: Extension.

Title: Importer's Records and Reports.

Description: Importers are required to maintain usual and customary business records and file letter applications or notices related to specific regulatory activities.

Respondents: Federal Government.

Estimated Number of Recordkeepers: 500.

Estimated Burden Hours Per Recordkeeper: 30 minutes.

Frequency of Response: On occasion.

Estimated Total Recordkeeping Burden: 251 hours.

OMB Number: 1512–0367.

Recordkeeping Requirement ID Number: ATF REC 5220/1.

Type of Review: Extension.

Title: Tobacco Export Warehouse-Record of Operations.

Description: Tobacco Export Warehouses store untaxpaid tobacco products until they are exported. Record is used to maintain accountability over these products. Allows ATF to verify that all products have been exported or tax liabilities satisfied. Protects tax revenues.

Respondents: Business of other for-profit.

Estimated Number of Recordkeepers: 221.

Estimated Burden Hours Per Recordkeeper: 1 hour.

Frequency of Response: On occasion.

Estimated Total Recordkeeping Burden: 1 hour.

OMB Number: 1512–0378.

Recordkeeping Requirement ID Number: ATF REC 5530/1.

Type of Review: Extension.

Title: Applications and Notices—Manufacturers of Nonbeverage Products.

Description: Reports (Letterhead Applications and Notices) are submitted by manufacturers of nonbeverage products who are using distilled spirits on which drawback will be claimed. Reports ensure that operations are in compliance with law; prevents spirits from diversion to beverage use. Protects the revenue.

Respondents: Business of other for-profit.

Estimated Number of Recordkeepers: 640.

Estimated Burden Hours Per Recordkeeper: 30 minutes.

Frequency of Response: On occasion.

Estimated Total Recordkeeping Burden: 640 hours.

OMB Number: 1512–0392.

Recordkeeping Requirement ID Number: ATF REC 5190/1.

Type of Review: Extension.

Title: Records of Things of Value to Retailers, and Occasional Letter Reports from Industry Members Regarding Information on Sponsorships, Advertisements, Promotions, etc., Under the Federal Alcohol Administration Act.

Description: These records and occasional letter reports are used to show compliance with the provisions of the Federal Alcohol Administration Act which prevents wholesalers, producers, or importers from giving things of value to retail liquor dealers, and prohibits industry members from conducting certain types of sponsorships, advertising, promotions, etc.

Respondents: Business of other for-profit, Individuals or households.

Estimated Number of Recordkeepers: 12,665.

Estimated Burden Hours Per Respondent: 1 hour.

Frequency of Response: On occasion.

Estimated Total Recordkeeping Burden: 51 hours.

OMB Number: 1512–0506.

Form Number: ATF F 5600.38.

Type of Review: Extension.

Title: Application For Extension of Time For Payment of Tax.

Description: ATF uses the information on the form to determine if a taxpayer is qualified to extend payment based on circumstances beyond the taxpayers control.

Respondents: Business of other for-profit.

Estimated Number of Respondents: 12.

Estimated Burden Hours Per Respondent: 15 minutes..

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 3 hours.

OMB Number: 1512–0514.

Form Number: ATF F 5154.2.

Type of Review: Extension.

Title: Supporting Data for Nonbeverage Drawback Claims.

Description: Data required to be submitted by manufacturers of nonbeverage products are used to verify claims for drawback of taxes and hence, protect the revenue. Maintains accountability, allows office (initial) verification of claims.

Respondents: Business of other for-profit.

Estimated Number of Respondents: 590 .

Estimated Burden Hours Per Respondent: 1 hour.

Frequency of Response: Quarterly.

Estimated Total Reporting Burden: 3540 hours.

OMB Number: 1512–0541.

Form Number: ATF F 3312.1 and ATF F 3312.2.

Type of Review: Extension.

Title: National Tracing Center Trace Request and NTC Obliterated Serial Number Trace Request.

Description: These forms are used by the Federal, State, local, and international law enforcement community to request that ATF trace firearms used or suspected to have been used in crimes.

Respondents: Federal Government, State, Local or Tribal Government.

Estimated Number of Respondents: 99,255.

Estimated Burden Hours Per Respondent: 6 minutes per form.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 198,015 hours.

Clearance Officer: Frank Bowers (202) 927–8930, Bureau of Alcohol, Tobacco and Firearms, Room 3200, 650 Massachusetts Avenue, NW, Washington, DC 20226.

OMB Reviewer: Alexander T. Hunt (202) 395–7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports, Management Officer.

[FR Doc. 00–18845 Filed 7–25–00; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

July 18, 2000.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before August 25, 2000 to be assured of consideration.

Internal Revenue Service (IRS)

OMB Number: 1545–0217.

Form Number: IRS Form 5735 and Schedule P.

Type of Review: Revision.

Title: Possessions Corporation Tax Credit (Under Sections 936 and 30A); and Allocation of Income and Expenses Under Section 936(h)(5) (Schedule P).

Description: Form 5735 is used to compute the possessions tax credit under sections 936 and 30A. Schedule P is used by corporations that elect to share the income or expenses with their affiliates. Each form provides the IRS with information to determine if the corporations have correctly computed the tax credit and the cost-sharing or profit-split method.

Respondents: Business or other for-profit.

Estimated Number of Respondents/Recordkeepers: 1,371.

Estimated Burden Hours Per Respondent/Recordkeeper:

	Form 5735	Schedule P
Recordkeeping	20 hr., 5 min	9 hr., 48 min.
Learning about the law or the form	4 hr., 48 min	1 hr., 27 min.
Preparing the form	7 hr., 12 min	2 hr., 36 min.
Copying, assembling, and sending the form to the IRS	32 min	16 min.

Frequency of Response: Annually.

Estimated Total Reporting/ Recordkeeping Burden: 33,656 hours.

OMB Number: 1545–0314.

Form Number: IRS Forms 6466 and 6467.

Type of Review: Revision.

Title: Transmittal of Forms W–4 Reported Magnetically/Electronically (6466); and Transmittal of Forms W–4 Reported Magnetically/Electronically (Continuation) (6467).

Description: Under Regulation Section 31.3402(f)(2)–1(g), employers are required to submit certain withholding certificates (Form W–4) to the IRS. Transmittal Form 6466 and the continuation sheet Form 6467 are submitted by an employer, or authorized agent of the employer, who will be reporting submissions of Form W–4 on magnetic/electronic media.

Respondents: Business or other for-profit, Not-for-profit institutions, Farms, Federal Government, State, Local or Tribal Government.

Estimated Number of Respondents/ Recordkeepers: 100.

Estimated Burden Hours Per Respondent/Recordkeeper:

Preparing Form 6466	18 min.
Preparing Form 6467	20 min.

Frequency of Response: Quarterly.

Estimated Total Reporting/ Recordkeeping Burden: 133 hours

OMB Number: 1545–0140.

Notice Number: Notice 1027.

Type of Review: Extension.

Title: How to Prepare Media Label for Form W–4.

Description: 26 U.S.C. 3402 requires all employers making payment of wages to deduct (withhold) tax upon such payments. Employers are further required under regulation section 31.3402(f)(2)–1(g) to submit certain withholding certificates (Form W–4) to IRS. Notice 1027 is sent to employers who prefer to file this information on magnetic tape.

Respondents: Business or other for-profit, Not-for-profit institutions, Farms, Federal Government, State, Local or Tribal Government.

Estimated Number of Respondents: 400.

Estimated Burden Hours Per Respondent: 5 minutes.

Frequency of Response: Quarterly.

Estimated Total Reporting Burden: 33 hours.

OMB Number: 1545–0644.

Form Number: IRS Form 6781.

Type of Review: Extension.

Title: Gains and Losses From Section 1256 Contracts and Straddles.

Description: Form 6781 is used by taxpayers in computing their gains and losses from Section 1256 contracts and straddles and their special treatment. The data is used to verify that the tax reported accurately reflects any such gains and losses.

Respondents: Business or other for-profit, Individuals or households.

Estimated Number of Respondents/ Recordkeepers: 100,000.

Estimated Burden Hours Per Respondent/Recordkeeper:

Recordkeeping	11 hr., 28 min.
Learning about the law or the form.	2 hr., 9 min.
Preparing the form	3 hr., 22 min.
Copying, assembling, and sending the form to the IRS.	16 min.

Frequency of Response: Annually.

Estimated Total Reporting/ Recordkeeping Burden: 1,727,000 hours.

OMB Number: 1545–1190.

Form Number: IRS Form 8824.

Type of Review: Extension.

Title: Like-Kind Exchanges.

Description: Form 8824 is used by individuals, partnerships, and other entities to report the exchange of business or investment property, and the deferral of gains from such transactions under section 1031. It is also used to report the deferral of gain under section 1043 by members of the executive branch of the Federal Government.

Respondents: Individuals or households, Business or other for-profit.

Estimated Number of Respondents/ Recordkeepers: 200,000.

Estimated Burden Hours Per Respondent/Recordkeeper:

Recordkeeping	27 min.
Learning about the law or the form.	27 min.
Preparing the form	1 hr., 2 min.
Copying, assembling, and sending the form to the IRS.	34 min.

Frequency of Response: Annually.

Estimated Total Reporting/ Recordkeeping Burden: 499,865 hours.

OMB Number: 1545–1326.

Form Number: IRS Form 2555–EZ.

Type of Review: Extension.

Title: Foreign Earned Income Exclusion.

Description: This form is used by U.S. citizens and resident aliens who qualify for the foreign earned income exclusion. This information is used by the Service to determine if a taxpayer qualifies for the exclusion. Form 2555–EZ is a less burdensome form that will be used where foreign earned income is $76,000 or less.

Respondents: Individuals or households.

Estimated Number of Respondents/ Recordkeepers: 43,478.

Estimated Burden Hours Per Respondent/Recordkeeper:

Recordkeeping	26 min.
Learning about the law or the form.	17 min.
Preparing the form	42 min.
Copying, assembling, and sending the form to the IRS.	31 min.

Frequency of Response: Annually.

Estimated Total Reporting/ Recordkeeping Burden: 84,782 hours.

OMB Number: 1545–1543.

Revenue Procedure Number: Revenue Procedure 97–29.

Type of Review: Extension.

Title: Model Amendments and Prototype Program for SIMPLE IRAs.

Description: The revenue procedure provides guidance to drafters of prototype SIMPLE IRAs on obtaining opinion letters, and provides permissive amendments to sponsors of nonSIMPLE IRAs.

Respondents: Business or other for-profit, Not-for-profit institutions.

Estimated Number of Respondents: 3,205.

Estimated Burden Hours Per Respondent: 8 hours, 4 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 25,870 hours.

Clearance Officer: Garrick Shear, Internal Revenue Service, Room 5244, 1111 Constitution Avenue, NW, Washington, DC 20224.

OMB Reviewer: Alexander T. Hunt, (202) 395–7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports, Management Officer.

[FR Doc. 00–18846 Filed 7–25–00; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

July 19, 2000.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before August 25, 2000 to be assured of consideration.

Internal Revenue Service (IRS)

OMB Number: 1545–0675.

Form Number: IRS Form 1040EZ.

Type of Review: Revision.

Title: Income Tax Return for Single and Joint Filers With No Dependents.

Description: Form 1040EZ is used by certain individuals to report their income subject to income tax and to figure their correct tax liability. The data is also used to verify that the items reported on the form are correct and are also for general statistical use.

Respondents: Individuals or households.

Estimated Number of Respondents/ Recordkeepers: 15,159,869.

Estimated Burden Hours Per Respondent/Recordkeeper:

Recordkeeping	4 min.
Learning about the law or the form.	1 hr., 38 min.
Preparing the form	1 hr., 50 min.
Copying, assembling, and sending the form to the IRS.	22 min.

Frequency of Response: Annually.

Estimated Total Reporting/ Recordkeeping Burden: 44,008,325 hours.

OMB Number: 1545–0998.

Form Number: IRS Form 8615.

Type of Review: Extension.

Title: Tax for Children Under Age 14 Who Have Investment Income of More Than $1,400.

Description: Under section 1(g), children under age 14 who have unearned income may be taxed on part of that income at their parent's tax rate. Form 8615 is used to see if any of the child's unearned income is taxed at the parent's rate and, if so, to figure the child's tax on his or her unearned income and earned income, if any.

Respondents: Individuals or households.

Estimated Number of Respondents/ Recordkeepers: 331,128.

Estimated Burden Hours Per Respondent/Recordkeeper:

Recordkeeping	26 min.
Learning about the law or the form.	11 min.
Preparing the form	42 min.
Copying, assembling, and sending the form to the IRS.	20 min.

Frequency of Response: Annually.

Estimated Total Reporting/ Recordkeeping Burden: 552,984 hours.

Clearance Officer: Garrick Shear, Internal Revenue Service, Room 5244, 1111 Constitution Avenue, NW, Washington, DC 20224.

OMB Reviewer: Alexander T. Hunt, (202) 395–7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 00–18847 Filed 7–25–00; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

July 18, 2000.

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, N.W., Washington, DC 20220.

DATES: Written comments should be received on or before August 25, 2000 to be assured of consideration.

U.S. Secret Service (USSS)

OMB Number: New.

Form Number: SSF 3237.

Type of Review: New collection.

Title: Contractor Personnel Access Application.

Description: Respondents are all Secret Service Contractor personnel requiring access to Secret Service facilities in performance of their contractual duties. These contractors, if approved for access, will required escorted, unescorted, and staff-like access to Secret Service Facilities. Responses to questions on the SSF 3237 yields information necessary for the adjudication of eligibility for facility access.

Respondents: Individuals or households, Business or other for-profit.

Estimated Number of Respondents: 5,000.

Estimated Burden Hours Per Respondent: 15 minutes.

Frequency of Response: Monthly.

Estimated Total Reporting Burden: 1,250 hours.

Clearance Officer: Sandy Bigley (202) 406–6890, U.S. Secret Service 7th Floor 950 H. Street, NW., Washington, DC 20001–4518.

OMB Reviewer: Alexander T. Hunt (202) 395–7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 00–18848 Filed 7–25–00; 8:45 am]

BILLING CODE 4810–42–P

DEPARTMENT OF THE TREASURY

Fiscal Service

Financial Management Service

Proposed Collection of Information: Management of Federal Agency Disbursements

AGENCY: Financial Management Service, Fiscal Service, Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Financial Management Service, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on a continuing information collection. By this notice, the Financial Management Service solicits comments concerning the ''Management of Federal Agency Disbursements.''

DATES: Written comments should be received on or before September 25, 2000.

ADDRESSES: Direct all written comments to Financial Management Service, 3700 East West Highway, Programs Branch, Room 144, Hyattsville, Maryland 20782.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Cynthia L.

Johnson, Director, Cash Management Policy and Planning Division, Room 420, 401–14th Street, SW., Washington, DC 20227 (202) 874–6908.

SUPPLEMENTARY INFORMATION: Pursuant to the Paperwork Reduction Act of 1995, (44 U.S.C. 3506(c)(2)(a), the Financial Management Service solicits comments on the collection of information described below.

Title: Management of Federal Agency Disbursements.

OMB Number: 1510–0066.

Form Number: N/A.

Abstract: Recipients of Federal disbursements must furnish to FMS their bank account number and the name and routing number of their financial institution to receive payment electronically.

Current Actions: Extension of currently approved collection.

Type of Review: Regular.

Affected Public: Businesses or other for-profit institutions, Individuals or households, Not-for-profit institutions.

Estimated Number of Respondents: 1,300.

Estimated Time Per Respondent: 15 minutes.

Estimated Total Annual Burden Hours: 325.

Comments: Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance and purchase of services to provide information.

Dated: July 20, 2000.

Bettsy H. Lane,

Assistant Commissioner, Federal Finance.

[FR Doc. 00–18843 Filed 7–25–00; 8:45 am]

BILLING CODE 4810–35–M

DEPARTMENT OF THE TREASURY

Fiscal Service

Financial Management Service

Proposed Collection of Information: Direct Deposit Sign-Up Form

AGENCY: Financial Management Service, Fiscal Service, Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Financial Management Service, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on a continuing information collection. By this notice, the Financial Management Service solicits comments concerning Form 1199A ''Direct Deposit Sign-Up Form''.

DATES: Written comments should be received on or before September 25, 2000.

ADDRESSES: Direct all written comments to Financial Management Service, 3700 East West Highway, Programs Branch, Room 144, Hyattsville, Maryland 20782.

FOR FURTHER INFORMATION CONTACT: Request for additional information should be directed to Susan Alvarez, Room 304–D, 401–14 Street, SW., Washington, DC 20227, (202) 874–6908.

SUPPLEMENTARY INFORMATION: Pursuant to the Paperwork Reduction Act of 1995, (44 U.S.C. 3506(c)(2)(A)), the Financial Management Service solicits comments on the collection of information described below.

Title: Direct Deposit Sign-Up Form.

OMB Number: 1510–0007.

Form Number: 1199A.

Abstract: This form is used by recipients to authorize the deposit of Federal payments into their accounts at financial institutions. The information on the form routes the Direct Deposit payment to the correct account at the financial institution.

Current Actions: Extension of currently approved collection.

Type of Review: Regular.

Affected Public: Individuals or households, Business or other for-profit, Federal Government.

Estimated Number of Respondents: 2,197,960.

Estimated time Per Respondent: 10 minutes.

Estimated Total Annual Burden Hours: 373,653.

Comments: Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance and purchase of services to provide information.

Dated: July 20, 2000.

Bettsy H. Lane,

Assistant Commissioner, Federal Finance.

[FR Doc. 00–18844 Filed 7–25–00; 8:45 am]

BILLING CODE 4810–35–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8872

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 8872, Political Organization Report of Contributions and Expenditures.

DATES: Written comments should be received on or before September 25, 2000 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Faye Bruce, (202) 622–6665, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Political Organization Report of Contributions and Expenditures.

OMB Number: 1545–1696.

Form Number: 8872.

Abstract: Internal Revenue Code section 527(j) requires certain political organizations to report contributions received and expenditures made after July 1, 2000. Every section 527 political organization that accepts a contribution or makes an expenditure for an exempt function during the calendar year must file Form 8872 except for: A political organization that is not required to file Form 8871, or a state or local committee of a political party or political committee of a state or local candidate.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Not-for-profit institutions.

Estimated Number of Responses: 40,000.

Estimated Time Per Response: 20 hours, 3 minutes.

Estimated Total Annual Burden Hours: 802,000.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments:

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: July 19, 2000.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 00–18817 Filed 7–25–00; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Tax on Certain Imported Substances (Polyether Polyols); Notice of Determinations

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice.

SUMMARY: This notice announces determinations, under Notice 89–61, that the list of taxable substances in section 4672(a)(3) will be modified to include nine polyether polyol substances.

EFFECTIVE DATE: This modification is effective October 1, 1992.

FOR FURTHER INFORMATION CONTACT: Ruth Hoffman, Office of Associate Chief Counsel (Passthroughs and Special Industries), (202) 622–3130 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

Under section 4672(a), an importer or exporter of any substance may request that the Secretary determine whether that substance should be listed as a taxable substance. The Secretary shall add the substance to the list of taxable substances in section 4672(a)(3) if the Secretary determines that taxable chemicals constitute more than 50 percent of the weight, or more than 50 percent of the value, of the materials used to produce the substance. This determination is to be made on the basis of the predominant method of production. Notice 89–61, 1989–1 C.B. 717, sets forth the rules relating to the determination process.

Determinations

On July 14, 2000, the Secretary determined that nine polyether polyol substances should be added to the list of taxable substances in section 4672(a)(3), effective October 1, 1992.

The rate of tax prescribed for poly(propylene)glycol, under section 4671(b)(3), is $7.74 per ton. This is based upon a conversion factor for propylene of 0.781, a conversion factor for chlorine of 1.31, and a conversion factor for sodium hydroxide of 1.43.

The rate of tax prescribed for poly(propylene/ethylene)glycol, under section 4671(b)(3), is $7.16 per ton. This is based upon a conversion factor for propylene of 0.663, a conversion factor for chlorine of 1.11, a conversion factor for sodium hydroxide of 1.21, and a conversion factor for ethylene of 0.123.

The rate of tax prescribed for poly(propyleneoxy)glycerol, under section 4671(b)(3), is $6.38 per ton. This is based upon a conversion factor for propylene of 0.645, a conversion factor for chlorine of 1.08, and a conversion factor for sodium hydroxide of 1.18.

The rate of tax prescribed for poly(ethyleneoxy)glycerol, under section 4671(b)(3), is $3.31 per ton. This is based upon a conversion factor for ethylene of 0.681.

The rate of tax prescribed for poly(propyleneoxy/ethyleneoxy)glycerol, under section 4671(b)(3), is $7.20 per ton. This is based upon a conversion factor for propylene of 0.71, a conversion factor for chlorine of 1.05, a conversion factor for sodium hydroxide of 1.05, and a conversion factor for ethylene of 0.126.

The rate of tax prescribed for poly(propyleneoxy)sucrose, under section 4671(b)(3), is $4.18 per ton. This is based upon a conversion factor for propylene of 0.423, a conversion factor for chlorine of 0.707, and a conversion factor for sodium hydroxide of 0.773.

The rate of tax prescribed for poly(propyleneoxy/ethyleneoxy)sucrose, under section 4671(b)(3), is $6.11 per ton. This is based upon a conversion factor for propylene of 0.549, a conversion factor for chlorine of 0.918, a conversion factor for sodium hydroxide of 1.0, and a conversion factor for ethylene of 0.14.

The rate of tax prescribed for poly(propyleneoxy/ethyleneoxy)diamine, under section 4671(b)(3), is $4.92 per ton. This is based upon a conversion factor for propylene of 0.498, a conversion factor for chlorine of 0.833, and a conversion factor for sodium hydroxide of 0.91.

The rate of tax prescribed for poly(propyleneoxy/ethyleneoxy)benzenediamine, under section 4671(b)(3), is $5.25 per ton. This is based upon a conversion factor for propylene of 0.491, a conversion factor for chlorine of 0.821, a conversion factor for sodium hydroxide of 0.897, and a conversion factor for ethylene of 0.081.

The petitioner is Dow Chemical Company, a manufacturer and exporter of these substances. No material comments were received on this petition. The following information is the basis for the determinations.

The nine polyether polyol substances are liquids. They are produced predominantly by the base-catalyzed reaction of cyclic ethers, usually ethylene oxide and propylene oxide, with active hydrogen-containing compounds (initiators) such as water, glycols, polyols, and amines. The reaction is carried out by a discontinuous batch process at elevated temperatures and pressures and under an inert atmosphere. The particular substance produced depends upon the oxides, initiators, reaction conditions, and catalysts used. The stoichiometric amounts of oxide reacted on the initiator determine the chain lengths and thus the molecular weights. The HTS number for these substances is 3907.20.00.

Poly(propylene)glycol

CAS number: 025322–69–4

Poly(propylene)glycol is derived from the taxable chemicals propylene, chlorine, and sodium hydroxide.

The stoichiometric material consumption formula for this substance is: n+1(C_3H_6 (propylene) + Cl_2 (chlorine) + 2 NaOH (sodium hydroxide)) + H_2O (water) → $C_3H_8O_2(C_3H_6O)_n$ (poly(propylene)glycol) + n+1(2 NaCl (sodium chloride) + H_2O (water)).

Poly(propylene)glycol has been determined to be a taxable substance because a review of its stoichiometric material consumption formula shows that, based on the predominant method of production, taxable chemicals constitute at least 90 percent by weight of the materials used in its production.

Poly(propylene/ethylene)glycol

CAS number: 053637–25–5

Poly(propylene/ethylene)glycol is derived from the taxable chemicals propylene, chlorine, sodium hydroxide, and ethylene.

The stoichiometric material consumption formula for this substance is: n+1(C_3H_6 (propylene) + Cl_2 (chlorine) + 2 NaOH (sodium hydroxide)) + H_2O (water) + m/2(2 C_2H_4 (ethylene) + O_2 (oxygen)) → $C_3H_8O_2$ $C_3H_6O)_n(C_2H_4O)_m$ (poly(propylene/ethylene)glycol) + n+1(2 NaCl (sodium chloride) + H_2O (water))

Poly(propylene/ethylene)glycol has been determined to be a taxable substance because a review of its stoichiometric material consumption formula shows that, based on the predominant method of production, taxable chemicals constitute at least 90 percent by weight of the materials used in its production.

Poly(propyleneoxy)glycerol

CAS number: 025791–96–2

Poly(propyleneoxy)glycerol is derived from the taxable chemicals propylene, chlorine, and sodium hydroxide.

The stoichiometric material consumption formula for this substance is: $C_3H_8O_3$ (glycerine) + n(C_3H_6 (propylene) + Cl_2 (chlorine) + 2 NaOH (sodium hydroxide)) → $C_3H_8O_3(C_3H_6O)_n$ (poly(propyleneoxy)glycerol) + n(2 NaCl (sodium chloride) + H_2O (water))

Poly(propyleneoxy)glycerol has been determined to be a taxable substance because a review of its stoichiometric material consumption formula shows that, based on the predominant method of production, taxable chemicals constitute at least 85 percent by weight of the materials used in its production.

Poly(ethyleneoxy)glycerol

CAS number: 031694–55–0

Poly(ethyleneoxy)glycerol is derived from the taxable chemical ethylene.

The stoichiometric material consumption formula for this substance is: $C_3H_8O_3$ (glycerine) + m/2(2 C_2H_4 (ethylene) + O_2 (oxygen)) → $C_3H_8O_3(C_2H_4O)_m$ (poly(ethyleneoxy)glycerol)

Poly(ethyleneoxy)glycerol has been determined to be a taxable substance because a review of its stoichiometric material consumption formula shows that, based on the predominant method of production, taxable chemicals constitute more than 50 percent by weight of the materials used in its production.

Poly(propyleneoxy/ethyleneoxy)glycerol

CAS number: 009082–00–2

Poly(propyleneoxy/ethyleneoxy)glycerol is derived from the taxable chemicals propylene, chlorine, sodium hydroxide, and ethylene.

The stoichiometric material consumption formula for this substance is $C_3H_8O_3$ (glycerine) + n(C_3H_6 (propylene) + Cl_2 (chlorine) + 2 NaOH (sodium hydroxide)) + m/2(2 C_2H_4 (ethylene) + O_2 (oxygen)) → $C_3H_8O_3(C_3H_6O)_n(C_2H_4O)_m$ (poly(propyleneoxy/ethyleneoxy)glycerol) + n(2 NaCl (sodium chloride) + H_2O (water))

Poly(propyleneoxy/ethyleneoxy)glycerol has been determined to be a taxable substance because a review of its stoichiometric material consumption formula shows that, based on the predominant method of production, taxable chemicals constitute at least 85 percent by weight of the materials used in its production.

Poly(propyleneoxy)sucrose

CAS number: 009049–71–2

Poly(propyleneoxy)sucrose is derived from the taxable chemicals propylene, chlorine, and sodium hydroxide.

The stoichiometric material consumption formula for this substance is: $C_{12}H_{22}O_{11}$(sucrose) + n(C_3H_6 (propylene) + Cl_2 (chlorine) + 2 NaOH (sodium hydroxide)) → $C_{12}H_{22}O_{11}(C_3H_6O)_n$ (poly(propyleneoxy)sucrose) + n(2 NaCl (sodium chloride) + H_2O (water))

Poly(propyleneoxy)sucrose has been determined to be a taxable substance because a review of its stoichiometric material consumption formula shows that, based on the predominant method of production, taxable chemicals constitute at least 65 percent by weight of the materials used in its production.

Poly(propyleneoxy/ethyleneoxy)sucrose

CAS number: 026301–10–0

Poly(propyleneoxy/ethyleneoxy)sucrose is derived from the taxable chemicals propylene, chlorine, sodium hydroxide, and ethylene.

The stoichiometric material consumption formula for this substance is: $C_{12}H_{22}O_{11}$ (sucrose) + n(C_3H_6 (propylene) + Cl_2 (chlorine) + 2 NaOH (sodium hydroxide))+ m/2(2 C_2H_4 (ethylene) + O_2 (oxygen)) → $C_{12}H_{22}O_{11}(C_3H_6O)_n(C_2H_4O)_m$ (poly(propyleneoxy/ethyleneoxy)sucrose) + n(2 NaCl (sodium chloride) + H_2O (water))

Poly(propyleneoxy/ethyleneoxy)sucrose has been determined to be a taxable substance because a review of its stoichiometric material consumption formula shows that, based on the predominant method of production, taxable chemicals constitute at least 75 percent by weight of the materials used in its production.

Poly(propyleneoxy/ethyleneoxy)diamine

CAS number: 031568–06–6

Poly(propyleneoxy/ethyleneoxy)diamine is derived from the taxable chemicals propylene, chlorine, and sodium hydroxide.

The stoichiometric material consumption formula for this substance is: $C_4H_{12}N_2O$ (aminoethylethanolamine) + n(C_3H_6 (propylene) + Cl_2 (chlorine) + 2 NaOH (sodium hydroxide)) → $C_4H_{12}N_2O(C_3H_6O)_n$ (poly(propyleneoxy/ethyleneoxy)diamine) + n(2 NaCl (sodium chloride) + H_2O (water))

Poly(propyleneoxy/ethyleneoxy)diamine has been determined to be a taxable substance because a review of its stoichiometric material consumption formula shows that, based on the predominant method of production, taxable chemicals

constitute at least 60 percent by weight of the materials used in its production.

Poly(propyleneoxy/ethyleneoxy)benzenediamine

CAS number: 067800–94–6

The stoichiometric material consumption formula for this substance is: $C_7H_{10}N_2$ (ortho-toluenediamine) + n(C_3H_6 (propylene) + Cl_2 (chlorine) + 2 NaOH (sodium hydroxide)) + m/2(2 C_2H_4 (ethylene) + O_2 (oxygen)) → $C_7H_{10}N_2(C_3H_6O)_n(C_2H_4O)_m$ (poly(propyleneoxy/ethyleneoxy)benzenediamine) + n(2 NaCl (sodium chloride) + H_2O (water))

Poly(propyleneoxy/ethyleneoxy)benzenediamine has been determined to be a taxable substance because a review of its stoichiometric material consumption formula shows that, based on the predominant method of production, taxable chemicals constitute at least 60 percent by weight of the materials used in its production.

Dale D. Goode,

Federal Register Liaison Officer, Office of Special Counsel (Modernization & Strategic Planning).

[FR Doc. 00–18818 Filed 7–25–00; 8:45 am]

BILLING CODE 4830–01–P

Corrections

Federal Register
Vol. 65, No. 144
Wednesday, July 26, 2000

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

FEDERAL HOUSING FINANCE BOARD

12 CFR Part 950

[No. 2000-33]

RIN 3069-AA98

Federal Home Loan Bank Acquired Member Assets, Core Mission Activities, Investments and Advances

Correction

In rule document 00–17663 beginning on page 43969 in the issue of Monday, July 17, 2000, make the following correction:

§950.25 [Corrected]

On page 43981, in the third column, ''**§950.18 Advances to out-of-district members and housing associates.**'' should read ''**§950.25 Advances to out-of-district members and housing associates.**''

[FR Doc. C0–17663 Filed 7–25–00; 8:45 am]
BILLING CODE 1505–01–D

Federal Register

Wednesday,
July 26, 2000

Part II

Department of Defense
General Services Administration
National Aeronautics and Space Administration

48 CFR Ch. 1
Federal Acquisition Regulations (FAR); Final and Interim Rules

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Chapter 1

Federal Acquisition Circular 97–19; Introduction

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Summary presentation of final and interim rules.

SUMMARY: This document summarizes the Federal Acquisition Regulation (FAR) rules agreed to by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) in this Federal Acquisition Circular (FAC) 97–19. The Councils drafted these FAR rules using plain language in accordance with the White House memorandum, Plain Language in Government Writing, dated June 1, 1998. The Councils wrote all new and revised text using plain language. A companion document, the Small Entity Compliance Guide (SECG), follows this FAC. The FAC, including the SECG, is available via the Internet at http://www.arnet.gov/far.

DATES: For effective dates and comment dates, see separate documents which follow.

FOR FURTHER INFORMATION CONTACT: The FAR Secretariat, Room 4035, GS Building, Washington, DC 20405, (202) 501–4755, for information pertaining to status or publication schedules. For clarification of content, contact the analyst whose name appears in the table below in relation to each FAR case or subject area. Please cite FAC 97–19 and specific FAR case numbers. Interested parties may also visit our website at http://www.arnet.gov/far.

Item	Subject	FAR case	Analyst
I	Contract Bundling	1997–306 (97–306)	De Stefano.
II	North American Industry Classification System (NAICS) (Interim)	2000–604	Moss.
III	Liquidated Damages	1999–003	Moss.
IV	Service Contract Act, Commercial Item Subcontracts	1998–605	Klein.
V	Small Business Competitiveness Demonstration Program	1999–012	Moss.
VI	Construction Industry Payment Protection Act of 1999	1999–302	De Stefano.
VII	Deferred Research and Development (R&D) Costs	1999–013	Nelson.
VIII	Time-and-Materials or Labor Hours	1999–606	Klein.
IX	Repeal of Reporting Requirements under Public Law 85–804	2000–006	Klein.
X	Technical Amendments		

SUPPLEMENTARY INFORMATION:

Summaries for each FAR rule follow. For the actual revisions and/or amendments to these FAR cases, refer to the specific item number and subject set forth in the documents following these item summaries.

Federal Acquisition Circular 97–19 amends the FAR as specified below:

Item I—Contract Bundling (FAR Case 1997–306 (97–306))

This final rule converts the interim rule published as Item III of FAC 97–15 to a final rule with minor changes. The rule amends the FAR to implement Sections 411–417 of the Small Business Reauthorization Act of 1997. Sections 411–417 amend Title 15 of the United States Code to define ''contract bundling,'' and to require agencies to avoid unnecessary bundling that precludes small business participation in the performance of Federal contracts.

This rule affects all contracting officers that may combine requirements that were previously awarded to a small business or requirements for which a small business could have competed. In accordance with the statute and Small Business Administration regulations, agencies must establish procedures for processing bundled requirements to ensure maximum small business participation in bundled acquisitions. Specifically, agencies and contracting officers must—

- Perform market research when bundled requirements are anticipated;
- Justify bundling in acquisition strategies;
- Meet specific estimated benefit thresholds before bundling requirements;
- Assess the impact of bundling on small businesses;
- Submit solicitations containing bundled requirements to the Small Business Administration (SBA) procurement center representatives for review; and
- Include, in negotiated competitions for bundled requirements, a source selection factor for the offerors' proposed use of small businesses as subcontractors and their past performance in meeting subcontracting goals.

Item II—North American Industry Classification System (NAICS) (FAR Case 2000–604)

This interim rule revises the FAR to convert size standards and other programs in the FAR that are currently based on the Standard Industrial Classification (SIC) system to the North American Industry Classification System (NAICS). NAICS is a new system that classifies establishments according to how they conduct their economic activity. It is a significant improvement over the SIC because it more accurately identifies industries. Beginning October 1, 2000, NAICS will be used to establish the size standards for acquisitions. In addition, the interim rule converts the designated industry groups in FAR 19.1005 to NAICS and requires agencies to report contract actions using the NAICS code rather than the SIC code.

Item III—Liquidated Damages (FAR Case 1999–003)

This final rule clarifies coverage on liquidated damages. This rule will make it easier for contracting officers to understand the policy for administering liquidated damages. The only substantive change is at FAR 11.501(d). The authority to approve reductions in or waivers to liquidated damages was changed from the Comptroller General to the Commissioner, Financial Management Service.

Item IV—Service Contract Act, Commercial Item Subcontracts (FAR Case 1998–605)

This final rule deletes the Service Contract Act of 1965 from the list of laws inapplicable to subcontracts for commercial items. FAR 12.504(a) contains this list.

Item V—Small Business Competitiveness Demonstration Program (FAR Case 1999–012)

This final rule converts the interim rule published as Item I of FAC 97–16 to a final rule without change.

The rule amends FAR Part 19 to clarify language pertaining to the Competitiveness Demonstration Program, consistent with revisions to the Program that were required by the OFPP and SBA joint final policy directive dated May 25, 1999. The rule revises FAR Subpart 19.10 to—

1. Advise the contracting officer to consider the 8(a) Program and HUBZone Program when there is not a reasonable expectation that offers will be received from two or more emerging small businesses; and

2. Add a new section 19.1006, Exclusions, to reflect the exclusions of orders under the Federal Supply Schedule Program and contract awards to educational and nonprofit institutions or governmental entities.

Item VI—Construction Industry Payment Protection Act of 1999 (FAR Case 1999–302)

This final rule amends FAR 28.102–2 and the clauses at 52.228–13, 52.228–15, and 52.228–16 to implement the Construction Industry Payment Protection (CIPP) Act of 1999. The CIPP Act amends the Miller Act to provide that the amount of a payment bond must equal the total amount payable by the terms of the contract, unless the contracting officer determines that a payment bond in that amount is impractical. The final rule also provides enhanced payment protection for Government contracts not subject to the Miller Act. The contracting officer must determine the appropriate amount of payment protection in each construction contract that exceeds $25,000, and in any other contract that requires a performance bond in accordance with FAR 28.103–2.

Item VII—Deferred Research and Development (R&D) Costs (FAR Case 1999–013)

This final rule amends the FAR by clarifying and simplifying the ''deferred research and development costs'' cost principle at FAR 31.205–48. The rule will only affect contracting officers that price contracts using cost analysis, or that are required by a contract clause to use cost principles for the determination, negotiation, or allowance of contractor costs.

Item VIII—Time-and-Materials or Labor Hours (FAR Case 1999–606)

This final rule clarifies the requirements regarding changes to time-and-materials and labor-hour contracts. The rule changes the clause at FAR 52.243–3, Changes—Time-and-Materials or Labor-Hours, to be consistent with Alternate II of the clause at FAR 52.243–1, Changes—Fixed-Price. Alternate II is used in service contracts and most of the work performed under time-and-materials or labor-hour contracts also involves services.

Item IX—Repeal of Reporting Requirements under Public Law 85–804 (FAR Case 2000–006)

This final rule amends the FAR to implement paragraph 901(r)(1) of the Federal Reports Elimination Act of 1998 (Pub. L. 105–362). Paragraph 901(r)(1) repealed section 4 of Public Law 85–804 (50 U.S.C. 1434). Section 4 required each department and agency to report annually to Congress any contract action in excess of $50,000 issued under the authority of this law. The rule revises FAR 50.000 to update the reference to Public Law 85–804 and eliminates the reporting requirements at FAR Part 50.104. Agencies are no longer required to submit to Congress annually a report of actions taken on requests for relief under the authority of Public Law 85–804.

Item X—Technical Amendments

These amendments update references and make editorial changes at sections 3.104–5, 4.803 and 22.400.

Dated: July 19, 2000.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

Federal Acquisition Circular

Federal Acquisition Circular (FAC) 97–19 is issued under the authority of the Secretary of Defense, the Administrator of General Services, and the Administrator for the National Aeronautics and Space Administration.

All Federal Acquisition Regulation (FAR) changes and other directive material contained in FAC 97–19 are effective [insert date 60 days after publication in the Federal Register], except for the following items:

Items I, V, VI, and X are effective [insert date of publication in the Federal Register].

Item IV is effective [insert date 30 days after publication in the Federal Register].

Item II is effective October 1, 2000.

Each rule is applicable to solicitations issued on or after the rule's effective date.

Dated: July 19, 2000.

Deidre A. Lee,

Director, Defense Procurement.

Federal Acquisition Circular

Dated: July 19, 2000.

David A. Drabkin,

Deputy Associate Administrator, Office of Acquisition Policy, General Services Administration.

Federal Acquisition Circular

Dated: July 18, 2000.

R. Scott Thompson,

Acting Associate Administrator for Procurement, National Aeronautics and Space Administration.

[FR Doc. 00–18667 Filed 7–25–00; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 2, 5, 7, 10, 15, and 19

[FAC 97–19; FAR Case 1997–306 (97–306); Item I]

RIN 9000–AI55

Federal Acquisition Regulation; Contract Bundling

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) have agreed on a final rule amending the Federal Acquisition Regulation (FAR) to implement Sections 411–417 of the Small Business Reauthorization Act of 1997. Sections 411–417 amend Title 15 of the United States Code to define ''contract bundling,'' and to require agencies to avoid unnecessary bundling that precludes small business participation in the performance of Federal contracts.

DATES: *Effective Date:* July 26, 2000.

FOR FURTHER INFORMATION CONTACT: The FAR Secretariat, Room 4035, GS Building, Washington, DC, 20405, (202) 501–4755, for information pertaining to status or publication schedules. For clarification of content, contact Mr. Ralph De Stefano, Procurement Analyst, at (202) 501–1758. Please cite FAC 97–19, FAR case 1997–306.

SUPPLEMENTARY INFORMATION:

A. Background

DoD, GSA, and NASA published an interim rule in the **Federal Register** at 64 FR 72441, December 27, 1999. The interim rule is converted to a final rule, with changes, and amends FAR Parts 2, 4, 5, 7, 10, 15, and 19 to implement Sections 411–417 of the Small Business Reauthorization Act of 1997, Pub. L. 105–135, and the Small Business Administration (SBA) interim rule published in the **Federal Register** at 64 FR 57366, October 25, 1999.

We received comments from six respondents in response to the interim rule and considered them in drafting the final rule.

This is not a significant regulatory action and, therefore, was not subject to review under Section 6(b) of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act, 5 U.S.C. 601, *et seq*., applies to this final rule. The Councils prepared a Final Regulatory Flexibility Analysis (FRFA). The FAR Secretariat has submitted a copy of the FRFA to the Chief Counsel for Advocacy of the Small Business Administration. The FRFA is summarized as follows:

This rule amends FAR Parts 2, 4, 5, 7, 10, 15, and 19 to implement Sections 411–417 of the Small Business Reauthorization Act of 1997, Pub. L. 105–135. Sections 411–417 amend Title 15 of the United States Code to define ''contract bundling,'' and to require agencies to avoid unnecessary bundling that precludes small business participation in the performance of Federal contracts.

The objective of the rule is to establish agency procedures for processing bundled requirements and to ensure maximum small business participation in bundled acquisitions. Agencies must—

- Perform market research when bundled requirements are anticipated;
- Justify bundling in acquisition strategies;
- Meet specific estimated benefit thresholds before bundling requirements;
- Assess the impact of bundling on small businesses;
- Submit solicitations containing bundled requirements to the Small Business Administration (SBA) procurement center representatives for review; and
- Include, in negotiated competitions for bundled requirements, a source selection factor for the offerors' proposed use of small businesses as subcontractors and their past performance in meeting subcontracting goals.

These objectives are stated in Sections 411–417 of Pub. L. 105–135 and in SBA's implementing regulations, published in the **Federal Register** at 64 FR 57366, October 25, 1999. We published an interim rule in the **Federal Register** at 64 FR 72441, December 27, 1999. Six respondents provided public comments. There are no practical alternatives that will accomplish the objective of this rule (*i.e.*, to ensure maximum participation of small businesses in Federal contracting as agencies combine requirements in the face of downsizing and other cost-saving measures). No viable alternatives were proposed during the public comment period.

Interested parties may obtain a copy of the FRFA from the FAR Secretariat.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FAR do not impose information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR parts 2, 5, 7, 10, 15, and 19

Government procurement.

Dated: July 19, 2000.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

Interim Rule Adopted as Final With Changes

Accordingly, DoD, GSA, and NASA adopt the interim rule amending 48 CFR parts 2, 4, 5, 7, 10, 15, and 19 which was published in the **Federal Register** at 64 FR 72441, December 27, 1999, as a final rule with the following changes:

1. The authority citation for 48 CFR parts 2, 5, 7, 10, 15, and 19 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

PART 2—DEFINITIONS OF WORDS AND TERMS

2. Amend section 2.101 by revising the definition ''Bundled contract'' to read as follows:

2.101 Definitions.

* * * * *

Bundled contract means a contract where the requirements have been consolidated by bundling. (See the definition of *bundling*.)

* * * * *

PART 5—PUBLICIZING CONTRACT ACTIONS

3. In section 5.206, revise the introductory text of paragraph (a) to read as follows:

5.206 Notices of subcontracting opportunities.

(a) The following entities may use a CBD notice to seek competition for subcontracts, to increase participation by qualified HUBZone small business, small, small disadvantaged, and small women-owned business concerns, and to meet established subcontracting plan goals:

* * * * *

PART 7—ACQUISITION PLANNING

4. Amend section 7.107 by revising the section heading and paragraphs (b)(2) and (h) to read as follows:

7.107 Additional requirements for acquisitions involving bundling.

* * * * *

(b) * * *

(2) Five percent of the estimated contract value (including options) or $7.5 million, whichever is greater, if the value exceeds $75 million.

* * * * *

(h) The requirements of this section, except for paragraph (e), do not apply if a cost comparison analysis will be performed in accordance with OMB Circular A–76.

PART 10—MARKET RESEARCH

5. In section 10.001, revise paragraph (c) to read as follows:

10.001 Policy.

* * * * *

(c) If an agency contemplates awarding a bundled contract, the agency—

(1) When performing market research, should consult with the local Small Business Administration procurement center representative (PCR) or, if a PCR is not assigned to the procuring activity, the SBA Office of Government Contracting Area Office serving the area in which the procuring activity is located; and

(2) At least 30 days before release of the solicitation—

(i) Must notify any affected incumbent small business concerns of the Government's intention to bundle the requirement; and

(ii) Should notify any affected incumbent small business concerns of how the concerns may contact the appropriate Small Business Administration representative.

PART 15—CONTRACTING BY NEGOTIATION

6. Amend section 15.305 by revising paragraph (a)(5) to read as follows:

15.305 Proposal evaluation.

(a) * * *

(5) *Small business subcontracting evaluation.* Solicitations must be structured to give offers from small

business concerns the highest rating for the evaluation factors in 15.304(c)(3)(iii) and (c)(5).

* * * * *

PART 19—SMALL BUSINESS PROGRAMS

7. Amend section 19.101 by adding paragraph (g)(5) to read as follows:

19.101 Explanation of terms.

* * * * *

(g) * * *

(5) *Size determination for teaming arrangements.* For size determination purposes, apply the size standard tests in (g)(1)(i) and (ii) of this section when a teaming arrangement of two or more business concerns submits an offer, as appropriate.

* * * * *

8. Amend section 19.202–1 by revising paragraph (e)(1)(iii) to read as follows:

19.202–1 Encouraging small business participation in acquisitions.

* * * * *

(e) * * *

(1) * * *

(iii) The proposed acquisition is for a bundled requirement. (See 10.001(c)(2)(i) for mandatory 30-day notice requirement to incumbent small business concerns.)

* * * * *

[FR Doc. 00–18668 Filed 7–25–00; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 5, 12, 19, 23, 52, and 53

[FAC 97–19; FAR Case 2000–604; Item II]

RIN 9000–AI75

Federal Acquisition Regulation; North American Industry Classification System (NAICS)

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Interim rule with request for comments.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) have agreed on an interim rule amending the Federal Acquisition Regulation (FAR) to convert size standards and other programs in the FAR based on the Standard Industrial Classification (SIC) system to the North American Industry Classification System (NAICS).

DATES: *Effective Date:* October 1, 2000.

Comment Date: Interested parties should submit comments to the FAR Secretariat at the address shown below on or before September 25, 2000 to be considered in the formulation of a final rule.

ADDRESSES: Submit written comments to: General Services Administration, FAR Secretariat (MVR), 1800 F Street, NW, Room 4035, Attn: Ms. Laurie Duarte, Washington, DC 20405.

Submit electronic comments via the Internet to: farcase.2000–604@gsa.gov

Please submit comments only and cite FAC 97–19, FAR case 2000-604 in all correspondence related to this case.

FOR FURTHER INFORMATION CONTACT: The FAR Secretariat, Room 4035, GS Building, Washington, DC 20405, (202) 501–4755, for information pertaining to status or publication schedules. For clarification of content, contact Ms. Victoria Moss, Procurement Analyst, at (202) 501–4764. Please cite FAC 97–19, FAR case 2000–604.

SUPPLEMENTARY INFORMATION:

A. Background

This interim rule amends the FAR to convert size standards and other programs in the FAR that are based on the Standard Industrial Classification (SIC) system to the North American Industry Classification System (NAICS).

The Small Business Administration (SBA) amended its regulations to convert small business size standards from the Standard Industrial Classification (SIC) System to the North American Industry Classification System (NAICS). These new size standards were published in the **Federal Register** at 65 FR 30836, May 15, 2000, and are effective on October 1, 2000. NAICS is a new system that classifies business concerns according to how they conduct their economic activity. SBA has determined that NAICS is a better description of industries in the U.S. economy than the SIC system for purposes of establishing size standards. This interim rule adopts the NAICS-based size standards effective October 1, 2000.

This rule conforms the FAR to the final SBA size standards and converts other programs in the FAR currently based on SIC codes to NAICS codes. These programs include the Small Business Competitiveness Demonstration Program at Subpart 19.10, the Price Evaluation Adjustment for Small Disadvantaged Business Concerns at Subpart 19.11, the Small Disadvantaged Business Participation Program at Subpart 19.12, and the Historically Underutilized Business Zone (HUBZone) Program at Subpart 19.13.

This is not a significant regulatory action and, therefore, was not subject to review under Section 6(b) of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

B. Regulatory Flexibility Act

The interim rule is not expected to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because the coding changes are primarily internal to the Government. External uses of the codes under the small business subcontracting program and small disadvantaged business participation programs are primarily limited to large businesses. This rule includes implementation of SBA's final rule, and SBA has certified that the impact of the SIC to NAICS change on each business will not be substantial. Therefore, an Initial Regulatory Flexibility Analysis has not been performed. The Councils will consider comments from small entities concerning the affected FAR Parts in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C 601, *et seq.* (FAC 97–19, FAR case 2000–604), in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (Pub. L. 104–13) applies; however, this interim rule does not impose new reporting and recordkeeping requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.* This rule will require restructuring of contractors' record systems to collect data on small disadvantaged businesses under small business subcontracting plans and small disadvantaged business participation plans by NAICS rather than SIC. Because this merely involves use of a different industry classification system, this interim rule does not affect existing OMB clearances (9000–0006, 9000–0007, and 9000–0150).

D. Determination To Issue an Interim Rule

A determination has been made under the authority of the Secretary of Defense

(DoD), the Administrator of General Services (GSA), and the Administrator for the National Aeronautics and Space Administration (NASA) that urgent and compelling reasons exist to promulgate this interim rule without prior opportunity for public comment. This action is necessary because the Small Business Administration (SBA) issued a final rule on May 15, 2000, providing a new size standards listing that is based on NAICS rather than SIC codes. The SBA rule requires Federal agencies to use the new size standards, beginning October 1, 2000, to determine whether a business is a small business concern. Changes to the FAR are needed to establish policy for use of the new size standards in Government acquisitions. The required implementation date of October 1, 2000, does not permit time to issue a proposed FAR rule and evaluate public comments. However, pursuant to Public Law 98–577 and FAR 1.501, the Councils will consider public comments received in response to this interim rule in the formation of the final rule.

List of Subjects in 48 CFR Parts 5, 12, 19, 23, 52, and 53

Government procurement.

Dated: July 19, 2000.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

Therefore, DoD, GSA, and NASA amend 48 CFR parts 5, 12, 19, 23, 52, and 53 as set forth below:

1. The authority citation for 48 CFR parts 5, 12, 19, 23, 52, and 53 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

PART 5—PUBLICIZING CONTRACT ACTIONS

2. Amend section 5.205 by revising paragraph (f)(2) to read as follows:

5.205 Special situations.

* * * * *

(f) * * *

(2) Specifying the North American Industry Classification System (NAICS) code;

* * * * *

PART 12—ACQUISITION OF COMMERCIAL ITEMS

12.603 [Amended]

3. Amend section 12.603 in the first sentence of paragraph (c)(2)(iv) by removing ''standard industrial classification'' and adding, in its place, ''NAICS''.

PART 19—SMALL BUSINESS PROGRAMS

4. Amend section 19.001 by revising the definition ''Industry'' to read as follows:

19.001 Definitions.

* * * * *

Industry, as used in this part, means all concerns primarily engaged in similar lines of activity, as listed and described in the North American Industry Classification system (NAICS) manual (available via the Internet at http://www.census.gov/epcd/www/naics.html).

* * * * *

5. Amend section 19.102 by revising paragraphs (b)(1) and (h) to read as follows:

19.102 Size standards.

* * * * *

(b) * * *

(1) Classifying the product or service being acquired in the industry whose definition, as found in the North American Industry Classification System (NAICS) Manual (available via the Internet at http://www.census.gov/epcd/www/naics.html), best describes the principal nature of the product or service being acquired;

* * * * *

(h) the industry size standards are published by the Small Business Administration and are available via the Internet at http://www.sba.gov/size/NAICS-cover-page.htm.

19.201 [Amended]

6. Amend section 19.201—

a. In the first sentence of paragraph (b) by removing ''Major Groups as contained in the Standard Industrial Classification (SIC) manual'' and adding, in its place, ''North American Industry Classification System (NAICS) Industry Subsector'';

b. In the sixth sentence of paragraph (b) by removing ''SIC MAJOR Group'' and adding, in its place, ''NAICS Industry Subsector'';

c. In the first sentence of the introductory text of paragraph (f)(1) by removing ''major industry groups'' and adding, in its place, ''Industry subsectors''; and

d. In paragraphs (f)(1)(ii) and (f)(1)(iii) by removing ''SIC Major Group'' and adding, in their place, ''Industry subsector''.

19.303 Determining North American Industry Classification System (NAICS) codes and size standards.

7. Amend section 19.303 by revising the section heading to read as set forth above; and in paragraph (a) by removing ''standard industrial classification'' and adding ''NAICS'' in its place.

19.501 [Amended]

8. Amend section 19.501 in paragraph (g) by removing ''product classification'' and adding ''NAICS code'' in its place.

19.805–1 [Amended]

9. Amend section 19.805–1 in paragraph (a)(2) by removing ''standard industrial classification (SIC)'' and adding ''North American Industry Classification System (NAICS)'' in its place.

19.1002 [Amended]

10. Amend section 19.1002 in the definition ''Emerging small business'' by removing ''standard industrial classification'' and adding ''North American Industry Classification System (NAICS)'' in its place.

11. Amend section 19.1005 by revising paragraph (a) to read as follows:

19.1005 Applicability.

(a) *Designated industry groups.*

NAICS code	NAICS description
	Construction
	Subsector 233—Building, Developing, and General Contracting
23311	Land Subdivision and Land Development.
23321	Single Family Housing Construction.
23322	Multifamily Housing Construction.
23331	Manufacturing and Industrial Building Construction.
23332	Commercial and Institutional Building Construction.

NAICS code	NAICS description
	Subsector 234—Heavy Construction
23411	Highway and Street Construction.
23412	Bridge and Tunnel Construction.
23491	Water, Sewer, and Pipeline Construction.
23492	Power and Communication Transmission Line Construction.
23493	Industrial Nonbuilding Structure Construction.
23499	All Other Heavy Construction.
	Subsector 235—Special Trade Contractors
23511	Plumbing, Heating, and Air-Conditioning Contractors.
23521	Painting and Wall Covering Contractors.
23531	Electrical Contractors.
23541	Masonry and Stone Contractors.
23542	Drywall, Plastering, Acoustical, and Insulation Contractors.
23543	Tile, Marble, Terrazzo, and Mosaic Contractors.
23551	Carpentry Contractors.
23552	Floor Laying and Other Floor Contractors.
23561	Roofing, Siding, and Sheet Metal Contractors.
23571	Concrete Contractors.
23581	Water Well Drilling Contractors.
23591	Structural Steel Erection Contractors.
23592	Glass and Glazing Contractors.
23593	Excavation Contractors.
23594	Wrecking and Demolition Contractors.
23595	Building Equipment and Other Machinery Installation Contractors.
23599	All Other Special Trade Contractors.
	Nonnuclear Ship Repair
336611	Ship Building and Repairing
	Architectural and Engineering Services (including surveying and mapping)
54131	Architectural Services.
54133	Engineering Services.
54136	Geophysical Surveying and Mapping Services.
54137	Surveying and Mapping (except Geophysical) Services.
	Refuse Systems and Related Services
562111	Solid Waste Collection.
562119	Other Waste Collection.
562219	Other Nonhazardous Waste Treatment and Disposal.

* * * * *

12. Revise the introductory text of section 19.1201 to read as follows:

19.1201 General.

This subpart addresses the evaluation of the extent of participation of small disadvantaged business (SDB) concerns in performance of contracts in the North American Industry Classification System (NAICS) Industry Subsectors as determined by the Department of Commerce (see 19.201(b)), and to the extent authorized by law. Two mechanisms are addressed in this subpart—

* * * * *

13. Amend section 19.1306 by revising paragraph (a)(2)(i) to read as follows:

19.1306 HUBZone sole source awards.

(a) * * *

(2) * * *

(i) $5,000,000 for a requirement within the North American Industry Classification System (NAICS) codes for manufacturing; or

* * * * *

19.303, 19.803, 19.804–2, 19.804–3, 19.804–5, 19.804–6, 19.810, 19.1007, 19.1102, 19.1202–1, 19.1202–2, 19.1202–4, 19.1203, and 19.1306 [Amended]

14. In addition to the amendments set forth above, in the table below, for each section indicated in the left column, remove the text indicated in the middle column from wherever it appears in the section, and add the text indicated in the right column:

Section	Remove	Add
19.303(c)(1) (twice); 19.303(c)(2)(ii)(B); 19.303(c)(3)(ii); 19.303(c)(4) (twice); 19.803(b)(4)(i)(B); 19.803(b)(4)(ii); 19.804–2(a)(3); 19.804–3(d) introductory text; 19.804–3(d)(1) (twice); 19.804–3(d)(2) (twice); 19.804–5(c); 19.804–6(c); 19.810(a)(3); 19.1007(a)(1).	SIC	NAICS.
19.1102(a); 19.1202–1; 19.1202–2(a) and introductory text of paragraph (b); 19.1202–4(a); 19.1203.	SIC Major Groups	NAICS Industry Subsector.
19.1306(a)(2)(ii)	SIC	NAICS.

PART 23—ENVIRONMENT, CONSERVATION, OCCUPATIONAL SAFETY, AND DRUG-FREE WORKPLACE

15. Amend section 23.906 by revising paragraph (a)(2)(iv) to read as follows:

23.906 Requirements.

(a) * * *

(2) * * *

(iv) Do not fall within Standard Industrial Classification Code (SIC) major groups 20 through 39 or their corresponding North American Industry Classification System (NAICS) sectors 31 through 33; or

* * * * *

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

16. Amend section 52.212–1 by revising the date and paragraph (a) of the provision to read as follows:

52.212–1 Instructions to Offerors—Commercial Items.

* * * * *

Instructions to Offerors—Commercial Items (Oct. 2000)

(a) *North American Industry Classification System (NAICS) code and small business size standard.* The NAICS code and small business size standard for this acquisition appear in Block 10 of the solicitation cover sheet (SF 1449). However, the small business size standard for a concern which submits an offer in its own name, but which proposes to furnish an item which it did not itself manufacture, is 500 employees.

* * * * *

52.212–3 [Amended]

17. Amend section 52.212–3 by revising the date of the clause to read ''(Oct 2000)''; and in paragraph (a) of the clause, in the definition ''Emerging small business,'' by removing ''standard industrial classification'' and adding, in its place, ''NAICS''.

18. Amend section 52.219–1 by revising the date and paragraph (a)(1) of the provision to read as follows:

52.219–1 Small Business Program Representations.

* * * * *

Small Business Program Representations (Oct. 2000)

(a)(1) The North American Industry Classification System (NAICS) code for this acquisition is—[insert NAICS code].

* * * * *

19. Amend section 52.219–9 by revising the date and paragraph (j)(2) of the clause to read as follows:

52.219–9 Small Business Subcontracting Plan.

* * * * *

Small Business Subcontracting Plan (Oct. 2000)

* * * * *

(j) * * *

(2) *Standard Form 295, Summary Subcontract Report.* This report encompasses all of the contracts with the awarding agency. It must be submitted semi-annually for contracts with the Department of Defense and annually for contracts with civilian agencies. If the reporting activity is covered by a commercial plan, the reporting activity must report annually all subcontract awards under that plan. All reports submitted at the close of each fiscal year (both individual and commercial plans) shall include a breakout, in the Contractor's format, of subcontract awards, in whole dollars, to small disadvantaged business concerns by North American Industry Classification System (NAICS) Industry Subsector. For a commercial plan, the Contractor may obtain from each of its subcontractors a predominant NAICS Industry Subsector and report all awards to that subcontractor under its predominant NAICS Industry Subsector.

* * * * *

52.219–19 [Amended]

20. Amend section 52.219–19 by revising the date of the provision to read ''(Oct. 2000)'' and in paragraph (a) by removing ''standard industrial classification'' and adding, in its place, ''North American Industry Classification System (NAICS)''.

52.219–24 [Amended]

21. Amend section 52.219–24 by—

a. Revising the date of the provision to read ''(Oct. 2000)''; and

b. In paragraph (b) of the provision by removing ''Standard Industrial Classification (SIC) Major Groups'' and adding, in its place, ''North American Industry Classification System (NAICS) Industry Subsectors''.

52.219–26 [Amended]

22. Amend section 52.219–26 by—

a. Revising the date of the clause to read ''(Oct. 2000);''

b. In paragraph (a) of the clause by removing ''Standard Industrial Classification (SIC) Major Groups'' and adding, in its place, ''North American Industry Classification System (NAICS) Industry Subsectors''; and

c. In paragraph (b) of the clause by removing ''SIC Major Groups'' and adding, in its place, ''NAICS Industry Subsectors.''

23. Amend section 52.223–13 by revising the date of the provision and paragraph (b)(2)(iv) to read as follows:

52.223–13 Certification of Toxic Chemical Release Reporting.

* * * * *

Certification of Toxic Chemical Release Reporting (Oct. 2000)

* * * * *

(b) * * *

(2) * * *

☐ (iv) The facility does not fall within Standard Industrial Classification Code (SIC) major groups 20 through 39 or their corresponding North American Industry Classification System (NAICS) sectors 31 through 33; or

* * * * *

24. Amend section 52.223–14 by revising the date of the clause and paragraph (b)(4) to read as follows:

52.223–14 Toxic Chemical Release Reporting.

* * * * *

Toxic Chemical Release Reporting (Oct. 2000)

(b) * * *

(4) The facility does not fall within Standard Industrial Classification Code (SIC) major groups 20 through 39 or their corresponding North American Industry Classification System (NAICS) sectors 31 through 33; or

* * * * *

PART 53—FORMS

53.204–2 [Amended]

25. Amend section 53.204–2—

a. In paragraph (a) by removing ''(*Rev. 10/97*)'' and adding in its place ''(*Rev 10/00*)''; and

b. In paragraph (b) by removing ''(*Rev. 5/96*)'' and adding in its place ''(*Rev 10/00*)''.

53.219 [Amended]

26. Amend section 53.219 in paragraph (c) by removing ''(*1/99*)'' and adding in its place ''(*10/00*)''.

27. Revise section 53.301–279 to read as follows:

BILLING CODE 6820–EP–P

53.301–279 Federal Procurement Data System (FPDS) Individual Contract Action Report.

FEDERAL PROCUREMENT DATA SYSTEM (FPDS) INDIVIDUAL CONTRACT ACTION REPORT (ICAR)

INTERAGENCY REPORT CONTROL NUMBER 0206-GSA-QU

1. REPORTING AGENCY CODE *(FIPS 95)(4 Pos.)*	2. CONTRACT NUMBER *(Left justified with no special characters) (15 Pos.)*	3. MODIFICATION NUMBER *(Left justified; cannot exceed 4 characters) (4 Pos.)*	4. CONTRACTING OFFICE ORDER NUMBER *(Left justified; cannot exceed 15 characters) (15 Pos.)*

5. CONTRACTING OFFICE CODE *(5 alpha-numeric character code) (5 Pos.)*	6. ACTION DATE *(4 digit calendar year and 2 digit month, e.g., 200012) (6 Pos.)*	7. TYPE OF DATA ENTRY *(1 Pos.)*	8. REPORT PERIOD *(4 digit fiscal year and 1 digit quarter, e.g., 20001) (5 Pos.)*
		A. Original B. Deleting C. Correcting	

9. KIND OF CONTRACT ACTION *(1 Pos.)*	10. DOLLARS OBLIGATED OR DEOBLIGATED THIS ACTION *(Right justified; round to nearest (000); truncate; use lead zeros, e.g., $49,450 is reported as 00000049) (8 Pos.)*
A. Initial Letter Contract B. Definitive Contract Superseding Letter Contract C. New Definitive Contract D. Purchase Orders/BPA Calls Using Simplified Acquisition Procedures E. Order Under Single Award Indefinite Delivery Contract F. Order Under BOA G. Order/Modification Under Federal Schedule Contract H. Modification J. Termination for Default K. Termination for Convenience L. Order Under Multiple Award Contract Z. Initial Load of Federal Schedule Contract	

11. TYPE OF OBLIGATION *(1 Pos.)*	12. PRINCIPAL PRODUCT OR SERVICE CODE *(FPDS Product Service Code Manual) (4 Pos.)*	13. PRINCIPAL NORTH AMERICAN INDUSTRY CLASSIFICATION SYSTEM (NAICS) CODE *(6 Pos.)*	14. COMMERCIAL ITEM ACQUISITION PROCEDURES *(1 Pos.)*
A. Obligated B. Deobligated			Y - Yes N - No

15. CONTRACTOR NAME *(30 Pos.)*

16. CONTRACTOR IDENTIFICATION NUMBER (DUNS) *(9 Pos.)*	17a. PRINCIPAL PLACE OF PERFORMANCE *(State and City Code FIPS 55)* STATE *(2 Pos.)* CITY *(5 Pos.)*	17b. FOREIGN COUNTRY *(FIPS 10) (2 Pos.)*	18. CONTRACT FOR FOREIGN GOVT. OR INTERNATIONAL ORGANIZATION *(1 Pos.)*
			Y - Yes N - No

19. TARIFF OR REGULATED *(Pre-CICA) (1 Pos.)*	20. PERFORMANCE-BASED SERVICE CONTRACTIING (PBSC) *(1 Pos.)*	21. BUNDLING OF CONTRACT REQUIREMENTS *(1 Pos.)*	22. COUNTRY OF MANUFACTURE *(FIPS 10) (2 Pos.)*
Y - Yes N - No	Y - Yes N - No	Y - Yes N - No	

23. SYNOPSIS OF THIS PROCUREMENT PRIOR TO AWARD *(1 Pos.)*	24. TYPE OF CONTRACT OR MODIFICATION *(1 Pos.)*
A. Synopsized Prior to Award B. Not Synopsized Due to Urgency C. Not Synopsized for Other Reasons	A. Fixed-Price Redetermination J. Fixed-Price K. Fixed-Price with Economic Price Adjustment L. Fixed-Price Incentive R. Cost-Plus-Award-Fee S. Cost - No Fee T. Cost Sharing U. Cost-Plus-Fixed-Fee V. Cost-Plus-Incentive Y. Time and Materials Z. Labor Hour

25. CICA APPLICABILITY *(1 Pos.)*	26. SOLICITATION PROCEDURES *(Complete only if Item 25 = A) (1 Pos.)*
A. CICA Applicable B. Purchase Orders/BPA Calls Using Simplified Acquisition Procedures C. Subject to Statute Other Than CICA D. Pre-CICA E. Commercial Item Acquisition Procedures Under Test Program	A. Full and Open Competition - Sealed Bid B. Full and Open Competition - Competitive Proposal C. Full and Open Competition - Combination D. Architect - Engineer Procedures E. Basic Research F. Multiple Award Schedule G. Alternative Sources H. Reserved J. Reserved K. Set-Aside L. Other Than Full and Open Competition

27. AUTHORITY FOR OTHER THAN FULL AND OPEN COMPETITION *(Complete only if item 26 = L) (1 Pos.)*	28. NUMBER OF OFFERS RECEIVED *(Complete only if item 25 = A or E) (1 Pos.)*	29. EXTENT COMPETED *(1 Pos.)*
A. Unique Source B. Follow-on Contract C. Unsolicited Research Proposal D. Patent/Data Rights E. Utilities F. Standardization G. Only One Source - Other H. Urgency J. Mobilization, Essential R&D Capability or Expert Services K. Reserved L. International Agreement M. Authorized by Statute N. Authorized for Resale P. National Security Q. Public Interest	A. 1 B. 2-5 C. 6-10 D. 11-15 E. 16-20 F. 21-50 G. Over 50	A. Competed Action B. Not Available for Competition C. Follow-on to Competed Action D. Not Competed

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STANDARD FORM 279 (REV. 10-2000)
Prescribed by GSA-FAR (48 CFR) 53.204-2(a)

30. TYPE OF CONTRACTOR *(1 Pos.)*		31. WOMEN-OWNED BUSINESS *(1 Pos.)*	32. HUBZONE SMALL BUSINESS CONCERN *(1 Pos.)*
A. Small Disadvantaged Business B. Other Small Business C. Large Business D. JWOD Nonprofit Agency E. Educational Institution F. Hospital G. Nonprofit Organization H. Reserved	J. Reserved K. State/Local Government L. Foreign Contractor M. Domestic Contractor Performing Outside US U. Historically Black College/University or Minority Institution (HBCU/MI)	Y - Yes N - No	Y - Yes N - No

33A. HUBZONE PROGRAM *(1 Pos.)*	33B. SMALL DISADVANTAGED BUSINESS PROGRAMS *(1 Pos.)*	33C. OTHER PREFERENCE PROGRAMS *(1 Pos.)*
A. HUBZone Sole Source B. HUBZone Set-Aside C. HUBZone Price Evaluation Preference D. Combined HUBZone Preference/Small Disadvantaged Business Price Adjustment E. Not Applicable	A. 8(a) Contract Award B. 8(a) with HUBZone Priority C. SDB Set-Aside D. SDB Price Evaluation Adjustment E. SDB Participation Program F. Not Applicable	A. Directed to JWOD Nonprofit Agency B. Small Business Set-Aside C. Buy Indian/Self Determination D. No Preference/Not Listed E. Very Small Business Set-Aside

33D. HUBZONE PRICE EVALUATION PREFERENCE PERCENT DIFFERENCE *(2 Pos.)*	33E. SDB PRICE EVALUATION ADJUSTMENT PERCENT DIFFERENCE *(2 Pos.)*	34. SUBCONTRACTING PLAN *(Small, Small Disadvantaged. and Women-Owned Small Business) (1 Pos.)*
		A. Required B. Not Required

35. SUBJECT TO LABOR STATUTES *(1 Pos.)*		36. ESTIMATED CONTRACT COMPLETION DATE *(4-digit year and 2-digit month, e.g., 200012) (6 Pos.)*	37. CONTRACTOR'S TIN *(9 Pos.)*
A. Walsh-Healey Act B. Reserved C. Service Contract Act D. Davis-Bacon Act	E. Not Subject to Walsh-Healey, Service Contract, or Davis-Bacon Acts		

38. COMMON PARENT'S NAME *(30 Pos.)*	39. COMMON PARENT'S TIN *(9 Pos.)*

40. VETERAN-OWNED SMALL BUSINESS (VOSB) *(1 Pos.)*	41. MULTIPLE AWARD CONTRACT FAIR OPPORTUNITY *(1 Pos.)*	
A. Service Disabled Veteran Owned Small Business B. Other Veteran Owned Small Business C. Not Veteran Owned Small Business	A. Fair Opportunity Process B. Urgency C. One/Unique Source	D. Follow on Contract E. Minimum Guarantee F. Not Applicable

SMALL BUSINESS COMPETITIVENESS DEMONSTRATION PROGRAM
(Applicable to AGR, DOD, DOE, DOI, DOT, EPA, GSA, HHS, NASA, and VA)

42. DEMONSTRATION PROGRAM *(1 Pos.)*	43. EMERGING SMALL BUSINESS *(1 Pos.)*	44. EMERGING SMALL BUSINESS RESERVE AWARD *(1 Pos.)*
Y - Yes N - No	Y - Yes N - No	Y - Yes N - No

45. SIZE OF SMALL BUSINESS *(1 Pos.)*

NUMBER OF EMPLOYEES		OR	AVERAGE ANNUAL GROSS REVENUE	
A. 50 or less	F. 751 - 1,000		M. $1,000,000 or less	T. $10,000,001 - $17,000,000
B. 51 - 100	G. Over 1,000		N. $1,000,001 - $2,000,000	Z. Over $17,000,000
C. 101 - 250			P. $2,000,001 - $3,500,000	
D. 251 - 500			R. $3,500,001 - $5,000,000	
E. 501-750			S. $5,000,001 - $10,000,000	

46. RESERVED FOR FPDS *(10 Pos.)*

47. OPTIONAL REPORTED DATA ELEMENTS *(100 Pos.)*	48. FOR AGENCY INTERNAL USE

49. CONTRACTING OFFICER OR REPRESENTATIVE

a. TYPED NAME	b. SIGNATURE	c. TELEPHONE		d. DATE SUBMITTED
		AREA CODE	NUMBER	

STANDARD FORM 279 (10-2000) **BACK**

28. Revise section 53.301–281 to read as follows:

53.301–281 Federal Procurement Data System (FPDS) Summary Contract Action Report ($25,000 or Less).

FEDERAL PROCUREMENT DATA SYSTEM (FPDS)
SUMMARY CONTRACT ACTION REPORT ($25,000 OR LESS)
(Dollars in thousands, rounded to the nearest thousand)

INTERAGENCY REPORT CONTROL NUMBER
0208-GSA-QU

CIVILIAN AGENCIES	**DEPARTMENT OF DEFENSE**
Net dollars and number of actions where anticipated value of instrument is $25,000 or less.	Net dollars and number of actions where amount obligated on action is $25,000 or less.

a. REPORT PERIOD		b. REPORT TYPE *(X one)*	c. REPORTING AGENCY CODE *(FIPS 95)*
FY	QTR	☐ ORIGINAL ☐ REVISION	

d. REPORTING AGENCY NAME	e. CONTRACTING OFFICE CODE	f. CONTRACTING OFFICE NAME

PART I - PRIME CONTRACT ACTIONS OF $25,000 OR LESS

	PROCUREMENT METHOD	Number of Actions (a)	NET DOLLAR AMOUNTS *(in thousands)* Small Business Concerns (b)	Large Business Concerns (c)	Domestic Outside US/ Foreign (d)	Other Entities (e)	Total Dollars (f)
NEW AWARDS AND MODIFICATIONS	1. Tariff or Regulated Acquisitions						
	2. Contract for Foreign Government or International Organization						
	3. Purchases Using Simplified Acquisition Procedures						
	4. Orders - GSA Federal Schedules						
	5. Orders - Other Federal Schedules						
	6. All Other Orders						
	7. Other Procurement Methods						
	8. TOTAL NEW AWARDS AND MODIFICATIONS						
COMPETITION	9. Competed						
	10. Not Competed						
	11. Not Available for Competition						
MODIFICATIONS	**12. TOTAL MODIFICATIONS *(Excluding Line 3)***						

PART II - SELECTED SOCIOECONOMIC STATISTICS *(Includes both new awards and modifications)*

CATEGORY	Number of Actions (a)	Total Net Dollars (b)	CATEGORY	Number of Actions (a)	Total Net Dollars (b)
13. Small Business Set-Aside			20. HUBZone Small Business Concerns		
14. Small Business Concerns					
15. 8(a) Contract Awards			21. Women-Owned Small Business Concerns		
16. Small Disadvantaged Business Set-Aside			22. JWOD Nonprofit Agency		
17. Small Disadvantaged Business Concerns			23. Service Disabled Veteran Owned Small Business		
18. HBCU/MI			24. Veteran Owned Small Business (VOSB)		
19. HUBZone Program					

g. PERSON SUBMITTING REPORT

NAME	SIGNATURE	TELEPHONE AREA CODE	TELEPHONE NUMBER	DATE SUBMITTED

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STANDARD FORM 281 (REV. 10-2000)
Prescribed by GSA-FAR (48 CFR) 53.204-2(b)

29. Revise section 53.302–312 to read as follows:

53.302–312 Small Disadvantaged Business (SDB) Participation Report.

SMALL DISADVANTAGED BUSINESS (SDB) PARTICIPATION REPORT	OMB No.: 9000-0150 Expires:	PAGE OF PAGES

Public reporting burden for this collection of information is estimated to average 8.66 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the FAR Secretariat (MVR), Federal Acquisition Policy Division, GSA, Washington, DC 20405.

1A. CONTRACTOR'S NAME	2. CONTRACT NUMBER		
1B. CONTRACTOR'S ADDRESS	3. TOTAL PARTICIPATION OF SDBs IN THE CONTRACT ($)		
	4. SDB PARTICIPATION AT PRIME CONTRACT LEVEL		
	A. NAICS INDUSTRY SUBSECTOR	B. DOLLAR AMOUNT	C. PERCENTAGE

5. BREAKDOWN OF SDB PARTICIPATION AT SUBCONTRACT LEVEL BY NAICS INDUSTRY SUBSECTOR

A. NAICS INDUSTRY SUBSECTOR	B. DOLLARS	C. PERCENT	A. NAICS INDUSTRY SUBSECTOR	B. DOLLARS	C. PERCENT

6. PREPARED BY

A. NAME OF INDIVIDUAL			B. DATE PREPARED
C. TELEPHONE NUMBER			D. E-MAIL ADDRESS
AREA CODE	NUMBER	EXTENSION	

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OPTIONAL FORM 312 (REV. 10-2000)
Prescribed by GSA/FAR (48 CFR) 53.219(c)

GENERAL INFORMATION INSTRUCTIONS

1. This form collects data on the participation of small disadvantaged business concerns in contracts that contain the clause at FAR 52.219-25, Small Disadvantaged Business Participation Program - Disadvantaged Status and Reporting.

2. Submit this report to the contracting officer. If your organization is required to report subcontracting data under an individual subcontracting plan, you may attach this report to the final SF 294, Subcontracting Report for Individual Contracts, submitted under the contract.

3. Report in whole dollars.

SPECIFIC INSTRUCTIONS

Block 3. Report the total dollar amount of participation of small disadvantaged business concerns under the contract cited in Block 2. Participation may be through subcontracting, teaming arrangement, joint ventures, or as the prime contractor (provided the prime contractor waived its right to a price evaluation adjustment).

Block 4. Report the participation, if any, by small disadvantaged business concerns in this contract at the prime contract level. All prime contract dollars must be reported under the North American Industrial Classification System (NAICS) assigned to the prime contract. Report the dollar amount and percentage of the total contract value.

Block 5. Report, by NAICS Industry Subsector, as determined by the Department of Commerce, the participation by small disadvantaged business concerns in this contract at the subcontract level. Report the dollar amount and percentage of the total contract value.

Block 6. Provide the name, telephone number, and e-mail address of the individual who can answer questions related to this report.

OPTIONAL FORM 312 (REV. 10-2000) **BACK**

[FR Doc. 00–18669 Filed 7–25–00; 8:45 am]

BILLING CODE 6820–EP–C

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 11, 22, 36, 49, and 52

[FAC 97–19; FAR Case 1999–003; Item III]

RIN 9000–AI63

Federal Acquisition Regulation; Liquidated Damages

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) have agreed on a final rule amending the Federal Acquisition Regulation (FAR) to rewrite guidance on liquidated damages in plain language.

DATES: Effective Date: September 25, 2000.

FOR FURTHER INFORMATION CONTACT: The FAR Secretariat, Room 4035, GS Building, Washington, DC, 20405, (202) 501–4755, for information pertaining to status or publication schedules. For clarification of content, contact Ms. Victoria Moss, Procurement Analyst, at (202) 501–4764. Please cite FAC 97–19, FAR case 1999–003.

SUPPLEMENTARY INFORMATION:

A. Background

This final rule clarifies coverage on liquidated damages. This rule will make it easier for contracting officers to understand the policy for administering liquidated damages. The only substantive change is at FAR 11.501(d). The authority to approve reductions in or waivers to liquidated damages was changed from the Comptroller General to the Commissioner, Financial Management Service.

Four respondents submitted public comments to the proposed rule. The Councils considered all comments in drafting the final rule.

This is not a significant regulatory action and, therefore, was not subject to review under Section 6(b) of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

B. Regulatory Flexibility Act

The Department of Defense, the General Services Administration, and the National Aeronautics and Space Administration certify that this final rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because the rule does not change existing practices. We did not receive any comments regarding this determination as a result of publication of the proposed rule in the **Federal Register** at 65 FR 2272, January 13, 2000.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FAR do not impose information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Parts 11, 22, 36, 49, and 52

Government procurement.

Dated: July 19, 2000.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

Therefore, DoD, GSA, and NASA propose that 48 CFR parts 11, 22, 36, 49, and 52 be amended as set forth below:

1. The authority citation for 48 CFR parts 11, 22, 36, 49, and 52 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

PART 11—DESCRIBING AGENCY NEEDS

2. Revise Subpart 11.5 to read as follows:

Subpart 11.5—Liquidated Damages

Sec.

11.500 Scope.

This subpart prescribes policies and procedures for using liquidated damages clauses in solicitations and contracts for supplies, services, research and development, and construction. This subpart does not apply to liquidated damages for subcontracting plans (see 19.705–7) or liquidated damages related to the Contract Work Hours and Safety Standards Act (see subpart 22.3).

11.501 Policy.

(a) The contracting officer must consider the potential impact on pricing, competition, and contract administration before using a liquidated damages clause. Use liquidated damages clauses only when—

(1) The time of delivery or timely performance is so important that the Government may reasonably expect to suffer damage if the delivery or performance is delinquent; and

(2) The extent or amount of such damage would be difficult or impossible to estimate accurately or prove.

(b) Liquidated damages are not punitive and are not negative performance incentives (see 16.402–2). Liquidated damages are used to compensate the Government for probable damages. Therefore, the liquidated damages rate must be a reasonable forecast of just compensation for the harm that is caused by late delivery or untimely performance of the particular contract. Use a maximum amount or a maximum period for assessing liquidated damages if these limits reflect the maximum probable damage to the Government. Also, the contracting officer may use more than one liquidated damages rate when the contracting officer expects the probable damage to the Government to change over the contract period of performance.

(c) The contracting officer must take all reasonable steps to mitigate liquidated damages. If the contract contains a liquidated damages clause and the contracting officer is considering terminating the contract for default, the contracting officer should seek expeditiously to obtain performance by the contractor or terminate the contract and repurchase (see subpart 49.4). Prompt contracting officer action will prevent excessive loss to defaulting contractors and protect the interests of the Government.

(d) The head of the agency may reduce or waive the amount of liquidated damages assessed under a contract, if the Commissioner, Financial Management Service, or designee approves (see Treasury Order 145–10).

11.502 Procedures.

(a) Include the applicable liquidated damages clause and liquidated damages rates in solicitations when the contract will contain liquidated damages provisions.

(b) Construction contracts with liquidated damages provisions must describe the rate(s) of liquidated damages assessed per day of delay. The rate(s) should include the estimated daily cost of Government inspection and superintendence. The rate(s) should also include an amount for other expected expenses associated with delayed completion such as—

(1) Renting substitute property; or
(2) Paying additional allowance for living quarters.

11.503 Contract clauses.

(a) Use the clause at 52.211–11, Liquidated Damages—Supplies, Services, or Research and Development, in fixed-price solicitations and contracts for supplies, services, or research and development when the contracting officer determines that liquidated damages are appropriate (see 11.501(a)).

(b) Use the clause at 52.211–12, Liquidated Damages—Construction, in solicitations and contracts for construction, other than cost-plus-fixed-fee, when the contracting officer determines that liquidated damages are appropriate (see 11.501(a)). If the contract specifies more than one completion date for separate parts or stages of the work, revise paragraph (a) of the clause to state the amount of liquidated damages for delay of each separate part or stage of the work.

(c) Use the clause at 52.211–13, Time Extensions, in solicitations and contracts for construction that use the clause at 52.211–12, Liquidated Damages—Construction, when that clause has been revised as provided in paragraph (b) of this section.

PART 22—APPLICATION OF LABOR LAWS TO GOVERNMENT ACQUISITIONS

3. Revise 22.302 to read as follows:

22.302 Liquidated damages and overtime pay.

(a) When an overtime computation discloses underpayments, the responsible contractor or subcontractor must pay the affected employee any unpaid wages and pay liquidated damages to the Government. The contracting officer must assess liquidated damages at the rate of $10 per affected employee for each calendar day on which the employer required or permitted the employee to work in excess of the standard workweek of 40 hours without paying overtime wages required by the Act.

(b) If the contractor or subcontractor fails or refuses to comply with overtime pay requirements of the Act and the funds withheld by Federal agencies for labor standards violations do not cover the unpaid wages due laborers and mechanics and the liquidated damages due the Government, make payments in the following order—

(1) Pay laborers and mechanics the wages they are owed (or prorate available funds if they do not cover the entire amount owed); and

(2) Pay liquidated damages.

(c) If the head of an agency finds that the administratively determined liquidated damages due under paragraph (a) of this section are incorrect, or that the contractor or subcontractor inadvertently violated the Act despite the exercise of due care, the agency head may—

(1) Reduce the amount of liquidated damages assessed for liquidated damages of $500 or less;

(2) Release the contractor or subcontractor from the liability for liquidated damages of $500 or less; or

(3) Recommend that the Secretary of Labor reduce or waive liquidated damages over $500.

(d) After the contracting officer determines the liquidated damages and the contractor makes appropriate payments, disburse any remaining assessments in accordance with agency procedures.

4. Sections 22.406–8 and 22.406–9 are revised to read as follows:

22.406–8 Investigations.

Conduct labor standards investigations when available information indicates such action is warranted. In addition, the Department of Labor may conduct an investigation on its own initiative or may request a contracting agency to do so.

(a) *Contracting agency responsibilities.* Conduct an investigation when a compliance check indicates that substantial or willful violations may have occurred or violations have not been corrected.

(1) The investigation must—

(i) Include all aspects of the contractor's compliance with contract labor standards requirements;

(ii) Not be limited to specific areas raised in a complaint or uncovered during compliance checks; and

(iii) Use personnel familiar with labor laws and their application to contracts.

(2) Do not disclose contractor employees' oral or written statements taken during an investigation or the employee's identity to anyone other than an authorized Government official without that employee's prior signed consent.

(3) Send a written request to the Administrator, Wage and Hour Division, to obtain—

(i) Investigation and enforcement instructions; or

(ii) Available pertinent Department of Labor files.

(4) Obtain permission from the Department of Labor before disclosing material obtained from Labor Department files, other than computations of back wages and liquidated damages and summaries of back wages due, to anyone other than Government contract administrators.

(b) *Investigation report.* The contracting officer must review the investigation report on receipt and make preliminary findings. The contracting officer normally must not base adverse findings solely on employee statements that the employee does not wish to have disclosed. However, if the investigation establishes a pattern of possible violations that are based on employees' statements that are not authorized for disclosure, the pattern itself may support a finding of noncompliance.

(c) *Contractor notification.* After completing the review, the contracting officer must—

(1) Provide the contractor any written preliminary findings and proposed corrective actions, and notice that the contractor has the right to request that the basis for the findings be made available and to submit written rebuttal information.

(2) Upon request, provide the contractor with rationale for the findings. However, under no circumstances will the contracting officer permit the contractor to examine the investigation report. Also, the contracting officer must not disclose the identity of any employee who filed a complaint or who was interviewed, without the prior consent of the employee.

(3)(i) The contractor may rebut the findings in writing within 60 days after it receives a copy of the preliminary findings. The rebuttal becomes part of the official investigation record. If the contractor submits a rebuttal, evaluate the preliminary findings and notify the contractor of the final findings.

(ii) If the contracting officer does not receive a timely rebuttal, the contracting officer must consider the preliminary findings final.

(4) If appropriate, request the contractor to make restitution for underpaid wages and assess liquidated damages. If the request includes liquidated damages, the request must state that the contractor has 60 days to request relief from such assessment.

(d) *Contracting officer's report.* After taking the actions prescribed in paragraphs (b) and (c) of this subsection—

(1) The contracting officer must prepare and forward a report of any violations, including findings and supporting evidence, to the agency head. Standard Form 1446, Labor Standards Investigation Summary Sheet, is the first page of the report; and

(2) The agency head must process the report as follows:

(i) The contracting officer must send a detailed enforcement report to the Administrator, Wage and Hour Division, within 60 days after completion of the investigation, if—

(A) A contractor or subcontractor underpaid by $1,000 or more;

(B) The contracting officer believes that the violations are aggravated or willful (or there is reason to believe that the contractor has disregarded its obligations to employees and subcontractors under the Davis-Bacon Act);

(C) The contractor or subcontractor has not made restitution; or

(D) Future compliance has not been assured.

(ii) If the Department of Labor expressly requested the investigation and none of the conditions in paragraph (d)(2)(i) of this subsection exist, submit a summary report to the Administrator, Wage and Hour Division. The report must include—

(A) A summary of any violations;

(B) The amount of restitution paid;

(C) The number of workers who received restitution;

(D) The amount of liquidated damages assessed under the Contract Work Hours and Safety Standards Act;

(E) Corrective measures taken; and

(F) Any information that may be necessary to review any recommendations for an appropriate adjustment in liquidated damages.

(iii) If none of the conditions in paragraphs (d)(2)(i) or (ii) of this subsection are present, close the case and retain the report in the appropriate contract file.

(iv) If substantial evidence is found that violations are willful and in violation of a criminal statute, (generally 18 U.S.C. 874 or 1001), forward the report (supplemented if necessary) to the Attorney General of the United States for prosecution if the facts warrant. Notify the Administrator, Wage and Hour Division, when the report is forwarded for the Attorney General's consideration.

(e) *Department of Labor investigations.* The Department of Labor will furnish the contracting officer an enforcement report detailing violations found and any corrective action taken by the contractor, in investigations that disclose—

(1) Underpayments totaling $1,000 or more;

(2) Aggravated or willful violations (or, when the contracting officer believes that the contractor has disregarded its obligations to employees and subcontractors under the Davis-Bacon Act); or

(3) Potential assessment of liquidated damages under the Contract Work Hours and Safety Standards Act.

(f) *Other investigations.* The Department of Labor will provide a letter summarizing the findings of the investigation to the contracting officer for all investigations that are not described in paragraph (e) of this subsection.

22.406–9 Withholding from or suspension of contract payments.

(a) *Withholding from contract payments.* If the contracting officer believes a violation exists (see 22.406–8), or upon request of the Department of Labor, the contracting officer must withhold from payments due the contractor an amount equal to the estimated wage underpayment and estimated liquidated damages due the United States under the Contract Work Hours and Safety Standards Act. (See 22.302.)

(1) If the contracting officer believes a violation exists or upon request of the Department of Labor, the contracting officer must withhold funds from any current Federal contract or Federally assisted contract with the same prime contractor that is subject to either Davis-Bacon Act or Contract Work Hours and Safety Standards Act requirements.

(2) If a subsequent investigation confirms violations, the contracting officer must adjust the withholding as necessary. However, if the Department of Labor requested the withholding, the contracting officer must not reduce or release the withholding without written approval of the Department of Labor.

(3) Use withheld funds as provided in paragraph (c) of this subsection to satisfy assessed liquidated damages, and unless the contractor makes restitution, validated wage underpayments.

(b) *Suspension of contract payments.* If a contractor or subcontractor fails or refuses to comply with the labor standards clauses of the Davis-Bacon Act and related statutes, the agency, upon its own action or upon the written request of the Department of Labor, must suspend any further payment, advance, or guarantee of funds until the violations cease or until the agency has withheld sufficient funds to compensate employees for back wages, and to cover any liquidated damages due.

(c) *Disposition of contract payments withheld or suspended.* (1) *Forwarding wage underpayments to the Secretary of the Treasury.* Upon final administrative determination, if the contractor or subcontractor has not made restitution, the contracting officer must forward to the appropriate disbursing office Standard Form (SF) 1093, Schedule of Withholdings Under the Davis-Bacon Act (40 U.S.C. 276(a)) and/or Contract Work Hours and Safety Standards Act (40 U.S.C. 327–333). Attach to the SF 1093 a list of the name, social security number, and last known address of each affected employee; the amount due each employee; employee claims if feasible; and a brief rationale for restitution. Also, the contracting officer must indicate if restitution was not made because the employee could not be located. The Government may assist underpaid employees in preparation of their claims. The disbursing office must submit the SF 1093 with attached additional data and the funds withheld (by check) to the Secretary of the Treasury.

(2) *Returning of withheld funds to contractor.* When funds withheld exceed the amount required to satisfy validated wage underpayments and assessed liquidated damages, return the funds to the contractor.

(3) *Limitation on forwarding or returning funds.* If the Department of Labor requested the withholding or if the findings are disputed (see 22.406–10(e)), the contracting officer must not forward the funds to the Secretary of the Treasury, or return them to the contractor without approval by the Department of Labor.

(4) *Liquidated damages.* Upon final administrative determination, the contracting officer must dispose of funds withheld or collected for liquidated damages in accordance with agency procedures.

PART 36—CONSTRUCTION AND ARCHITECT-ENGINEER CONTRACTS

36.206 [Amended]

5. Amend section 36.206 by removing ''shall'' and adding ''must'' in is place.

PART 49—TERMINATION OF CONTRACTS

6. In section 49.402–7, revise paragraph (a); and amend paragraph (b) by removing ''shall'' and inserting ''must'' in its place. The revised text reads as follows:

49.402–7 Other damages.

(a) If the contracting officer terminates a contract for default or follows a course of action instead of termination for default (see 49.402–4), the contracting officer promptly must assess and demand any liquidated damages to which the Government is entitled under the contract. Under the contract clause at 52.211–11, these damages are in addition to any excess repurchase costs.

* * * * *

7. Revise section 49.404 to read as follows:

49.404 Surety-takeover agreements.

(a) The procedures in this section apply primarily, but not solely, to fixed-price construction contracts terminated for default.

(b) Since the surety is liable for damages resulting from the contractor's default, the surety has certain rights and interests in the completion of the contract work and application of any undisbursed funds. Therefore, the contracting officer must consider carefully the surety's proposals for completing the contract. The contracting officer must take action on the basis of the Government's interest, including the possible effect upon the Government's rights against the surety.

(c) The contracting officer should permit surety offers to complete the contract, unless the contracting officer believes that the persons or firms proposed by the surety to complete the work are not competent and qualified or the proposal is not in the best interest of the Government.

(d) There may be conflicting demands for the defaulting contractor's assets, including unpaid prior earnings (retained percentages and unpaid progress estimates). Therefore, the surety may include a ''takeover'' agreement in its proposal, fixing the surety's rights to payment from those funds. The contracting officer may (but not before the effective date of termination) enter into a written agreement with the surety. The contracting officer should consider using a tripartite agreement among the Government, the surety, and the defaulting contractor to resolve the defaulting contractor's residual rights, including assertions to unpaid prior earnings.

(e) Any takeover agreement must require the surety to complete the contract and the Government to pay the surety's costs and expenses up to the balance of the contract price unpaid at the time of default, subject to the following conditions:

(1) Any unpaid earnings of the defaulting contractor, including retained percentages and progress estimates for work accomplished before termination, must be subject to debts due the Government by the contractor, except to the extent that the unpaid earnings may be used to pay the completing surety its actual costs and expenses incurred in the completion of the work, but not including its payments and obligations under the payment bond given in connection with the contract.

(2) The surety is bound by contract terms governing liquidated damages for delays in completion of the work, unless the delays are excusable under the contract.

(3) If the contract proceeds have been assigned to a financing institution, the surety must not be paid from unpaid earnings, unless the assignee provides written consent.

(4) The contracting officer must not pay the surety more than the amount it expended completing the work and discharging its liabilities under the defaulting contractor's payment bond. Payments to the surety to reimburse it for discharging its liabilities under the payment bond of the defaulting contractor must be only on authority of—

(i) Mutual agreement among the Government, the defaulting contractor, and the surety;

(ii) Determination of the Comptroller General as to payee and amount; or

(iii) Order of a court of competent jurisdiction.

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

8. Revise sections 52.211–11 through 52.211–13 to read as follows:

52.211–11 Liquidated Damages—Supplies, Services, or Research and Development.

As prescribed in 11.503(a), insert the following clause in solicitations and contracts:

Liquidated Damages—Supplies, Services, or Research and Development (Sept. 2000)

(a) If the Contractor fails to deliver the supplies or perform the services within the time specified in this contract, the Contractor shall, in place of actual damages, pay to the Government liquidated damages of $☐☐ per calendar day of delay [*Contracting Officer insert amount*].

(b) If the Government terminates this contract in whole or in part under the Default—Fixed-Price Supply and Service clause, the Contractor is liable for liquidated damages accruing until the Government reasonably obtains delivery or performance of similar supplies or services. These liquidated damages are in addition to excess costs of repurchase under the Termination clause.

(c) The Contractor will not be charged with liquidated damages when the delay in delivery or performance is beyond the control and without the fault or negligence of the Contractor as defined in the Default—Fixed-Price Supply and Service clause in this contract.

(End of clause)

52.211–12 Liquidated Damages—Construction.

As prescribed in 11.503(b), insert the following clause in solicitations and contracts:

Liquidated Damages—Construction (Sept 2000)

(a) If the Contractor fails to complete the work within the time specified in the contract, the Contractor shall pay liquidated damages to the Government in the amount of ☐☐ [*Contracting Officer insert amount*] for each calendar day of delay until the work is completed or accepted.

(b) If the Government terminates the Contractor's right to proceed, liquidated damages will continue to accrue until the work is completed. These liquidated damages are in addition to excess costs of repurchase under the Termination clause.

(End of clause)

52.211–13 Time Extensions.

As prescribed in 11.503(c), insert the following clause:

Time Extensions (Sept 2000)

Time extensions for contract changes will depend upon the extent, if any, by which the changes cause delay in the completion of the various elements of construction. The change order granting the time extension may provide that the contract completion date will be extended only for those specific elements related to the changed work and that the remaining contract completion dates for all other portions of the work will not be altered. The change order also may provide an equitable readjustment of liquidated damages under the new completion schedule.

(End of clause)

9. Revise section 52.222–4 to read as follows:

52.222–4 Contract Work Hours and Safety Standards Act—Overtime Compensation.

As prescribed in 22.305, insert the following clause:

Contract Work Hours and Safety Standards Act— Overtime Compensation (Sept 2000)

(a) *Overtime requirements.* No Contractor or subcontractor employing laborers or mechanics (see Federal Acquisition Regulation 22.300) shall require or permit them to work over 40 hours in any workweek unless they are paid at least 1 and 1/2 times the basic rate of pay for each hour worked over 40 hours.

(b) *Violation; liability for unpaid wages; liquidated damages.* The responsible Contractor and subcontractor are liable for unpaid wages if they violate the terms in paragraph (a) of this clause. In addition, the Contractor and subcontractor are liable for liquidated damages payable to the Government. The Contracting Officer will assess liquidated damages at the rate of $10 per affected employee for each calendar day on which the employer required or permitted the employee to work in excess of the standard workweek of 40 hours without paying overtime wages required by the Contract Work Hours and Safety Standards Act.

(c) *Withholding for unpaid wages and liquidated damages.* The Contracting Officer will withhold from payments due under the contract sufficient funds required to satisfy

any Contractor or subcontractor liabilities for unpaid wages and liquidated damages. If amounts withheld under the contract are insufficient to satisfy Contractor or subcontractor liabilities, the Contracting Officer will withhold payments from other Federal or Federally assisted contracts held by the same Contractor that are subject to the Contract Work Hours and Safety Standards Act.

(d) *Payrolls and basic records.* (1) The Contractor and its subcontractors shall maintain payrolls and basic payroll records for all laborers and mechanics working on the contract during the contract and shall make them available to the Government until 3 years after contract completion. The records shall contain the name and address of each employee, social security number, labor classifications, hourly rates of wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid. The records need not duplicate those required for construction work by Department of Labor regulations at 29 CFR 5.5(a)(3) implementing the Davis-Bacon Act.

(2) The Contractor and its subcontractors shall allow authorized representatives of the Contracting Officer or the Department of Labor to inspect, copy, or transcribe records maintained under paragraph (d)(1) of this clause. The Contractor or subcontractor also shall allow authorized representatives of the Contracting Officer or Department of Labor to interview employees in the workplace during working hours.

(e) *Subcontracts.* The Contractor shall insert the provisions set forth in paragraphs (a) through (d) of this clause in subcontracts exceeding $100,000 and require subcontractors to include these provisions in any lower tier subcontracts. The Contractor shall be responsible for compliance by any subcontractor or lower-tier subcontractor with the provisions set forth in paragraphs (a) through (d) of this clause.

(End of clause)

[FR Doc. 00–18670 Filed 7–25–00; 8:45 am]

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DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 12 and 52

[FAC 97–19; FAR Case 1998–605; Item IV]

RIN 9000–AI36

Federal Acquisition Regulation; Service Contract Act, Commercial Item Subcontracts

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: The Federal Acquisition Streamlining Act of 1994 (FASA) required the Federal Acquisition Regulatory Council (FAR Council) to include a list of laws that are inapplicable to subcontracts for the procurement of commercial items in the Federal Acquisition Regulation (FAR). The list was implemented and included the Service Contract Act (SCA). The FAR Council has reconsidered this issue and is removing the SCA from the list of laws inapplicable to subcontracts for commercial items.

EFFECTIVE DATE: August 25, 2000.

FOR FURTHER INFORMATION CONTACT: The FAR Secretariat, Room 4035, GS Building, Washington, DC 20405, (202) 501–4755, for information pertaining to status or publication schedules. For clarification of content, contact Ms. Linda Klein at (202) 501–3775. Please cite FAC 97–19, FAR case 1998–605.

SUPPLEMENTARY INFORMATION:

A. Background

Section 8003(b) of FASA required the FAR Council to include in the FAR a list of existing provisions of law that are inapplicable to subcontracts for commercial items. FASA defined those laws to be any provision of law, as determined by the FAR Council, that sets forth policies, provisions, requirements, or restrictions for the procurement of property or services, except those that provided for criminal or civil penalties or were specifically by law made applicable to contracts for the procurement of commercial items. In implementing this section of FASA, the FAR Council included the SCA on the list of laws inapplicable to commercial subcontracts in the final FAR rule (60 FR 48231, September 18, 1995).

In the period since publication of the FAR rule, the FAR Council, in consultation with the Department of Labor (DoL), has concluded that it is not in the best interest of the Government to retain the SCA on the list of laws that are inapplicable to all subcontracts for commercial items. The FAR Council agrees that any exemption from the coverage of the SCA for subcontracts for the acquisition of commercial items or components should be accomplished under the Secretary of Labor's authority in the SCA.

The FAR Council has forwarded recommendations to the Secretary of Labor for consideration in formulating a proposed rule regarding exemptions from coverage under the SCA for commercial items. When the proposal is finalized, DoL will publish the proposed rule, to be issued under the Secretary's authority, in the **Federal Register** for public comment. Following the completion of that rulemaking, the FAR will be amended accordingly.

With respect to other labor laws, the Walsh-Healey Act and the certification and contract clause requirements of the Contract Work Hours and Safety Standards Act were made inapplicable to commercial item contracts by the September 18, 1995, FAR final rule referenced above. However, the Walsh-Healey Act and the Contract Work Hours and Safety Standards Act provide statutory exemptions for purchases in the open market. The listing of these statutes in the FAR with respect to their inapplicability to commercial item contracts was designed to reflect the existing statutory open market exemptions.

This is not a significant regulatory action and, therefore, was not subject to review under Section 6(b) of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

B. Regulatory Flexibility Act

The final rule does not constitute a significant FAR revision within the meaning of FAR 1.501 and Public Law 98–577, and publication for public comments is not required. However, the Councils will consider comments from small entities concerning the affected FAR parts 12 and 52 in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C. 601, *et seq.* (FAC 97–19, FAR case 1998–605), in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FAR do not impose information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Parts 12 and 52

Government procurement.

Dated: July 19, 2000.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

Therefore, 48 CFR parts 12 and 52 are amended as set forth below:

1. The authority citation for 48 CFR parts 12 and 52 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

PART 12—ACQUISITION OF COMMERCIAL ITEMS

12.504 [Amended]

2. Amend section 12.504 by removing paragraph (a)(7) and redesignating paragraphs (a)(8) through (a)(12) as (a)(7) through (a)(11), respectively.

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

3. Amend section 52.212–5 by revising the clause date to read ''(AUG 2000)''; in paragraph (e)(3) by removing ''and''; in paragraph (e)(4) by removing the period at the end and adding ''; and''; and by adding paragraph (e)(5) to read as follows:

52.212–5 Contract Terms and Conditions Required to Implement Statutes or Executive Orders—Commercial Items.

* * * * *

(e) * * *

(5) 52.222–41, Service Contract Act of 1965, As Amended (41 U.S.C. 351, *et seq.*).

* * * * *

[FR Doc. 00–18671 Filed 7–25–00; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 19

[FAC 97–19; FAR Case 1999–012; Item V]

RIN 9000–AI64

Federal Acquisition Regulation; Small Business Competitiveness Demonstration Program

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) have agreed on a final rule amending the Federal Acquisition Regulation (FAR) to implement the Office of Federal Procurement Policy (OFPP) and Small Business Administration (SBA) final policy directive to provide updated guidance on the Small Business Competitiveness Demonstration Program.

DATES: *Effective Date:* July 26, 2000.

FOR FURTHER INFORMATION CONTACT: The FAR Secretariat, Room 4035, GS Building, Washington, DC 20405, (202) 501–4755, for information pertaining to status or publication schedules. For clarification of content, contact Ms. Victoria Moss, Procurement Analyst, at (202) 501–4764. Please cite FAC 97–19, FAR case 1999–012.

SUPPLEMENTARY INFORMATION:

A. Background

This final rule amends FAR Part 19 to provide updated guidance regarding the Small Business Competitiveness Demonstration Program (Program). The Program was originally established in 1988 by Title VII of Public Law 100–656, as amended, and subsequently implemented in the FAR. As statutory amendments were made to the Program, OFPP issued conforming modifications to its policy directive. With the enactment of Public Law 105–135, the Small Business Reauthorization Act of 1997, the Program was made permanent. The OFPP and SBA published a joint final policy directive on the Program in the **Federal Register** at 64 FR 29693, June 2, 1999. DoD, GSA, and NASA published a FAR interim rule in the **Federal Register** at 65 FR 16274, March 27, 2000. The Councils considered all comments in the development of the final rule. The Councils have agreed to convert the interim rule to a final rule without change.

This is not a significant regulatory action and, therefore, was not subject to review under Section 6(b) of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

B. Regulatory Flexibility Act

The Department of Defense, the General Services Administration, and the National Aeronautics and Space Administration certify that this final rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because the rule merely makes ministerial changes to the existing language and does not change existing policy.

C. Paperwork Reduction Act

The Paperwork Reduction Act (Pub. L. 104–13) does not apply because the changes to the FAR do not impose information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Part 19

Government procurement.

Dated: July 19, 2000.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

Interim Rule Adopted as Final Without Change

Accordingly, DoD, GSA, and NASA adopt the interim rule amending 48 CFR part 19, which was published in the **Federal Register** at 65 FR 16274, March 27, 2000, as a final rule without change.

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

[FR Doc. 00–18672 Filed 7–25–00; 8:45 am]

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DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 28 and 52

[FAC 97–19; FAR Case 1999–302; Item VI]

RIN 9000–AI60

Federal Acquisition Regulation; Construction Industry Payment Protection Act of 1999

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) have agreed on a final rule amending the Federal Acquisition Regulation (FAR) to implement the Construction Industry Payment Protection (CIPP) Act of 1999. The CIPP Act amends the Miller Act to provide that the amount of a payment bond must equal the total amount payable by the terms of the contract, unless the contracting officer determines that a payment bond in that amount is impractical. The final rule also provides enhanced payment protection for Government contracts not subject to the Miller Act.

DATES: *Effective Date:* July 26, 2000.

FOR FURTHER INFORMATION CONTACT: The FAR Secretariat, Room 4035, GS Building, Washington, DC, 20405, (202) 501–4755, for information pertaining to status or publication schedules. For clarification of content, contact Mr. Ralph De Stefano, Procurement Analyst,

at (202) 501–1758. Please cite FAC 97–19, FAR case 1999–302.

SUPPLEMENTARY INFORMATION:

A. Background

This final rule amends FAR 28.102 and the clauses at 52.228–13, 52.228–15, and 52.228–16 to implement the CIPP Act (Pub. L. 106–49) and to enhance payment protection for Government contracts not subject to the Miller Act.

The Miller Act (40 U.S.C. 270a, *et seq.*) requires contractors performing Government construction contracts that exceed $100,000 to furnish performance and payment bonds. Previously, the required payment bond did not exceed 50 percent of the contract price, and was capped at a ceiling of $2.5 million.

The CIPP Act substitutes a requirement that the payment bond generally must equal the contract price. In addition, the CIPP Act makes two procedural changes to the Miller Act, adding a requirement regarding subcontractor waiver of the right to sue on the payment bond, and modernizing the requirements for the delivery of notice by subcontractors having right of action on the payment bond.

DoD, GSA, and NASA published a proposed rule in the **Federal Register** at 64 FR 72828, December 28, 1999. Ten respondents submitted comments on the proposed rule. The Councils have considered all of these comments in formulation of the final rule.

The final rule makes minor editorial changes to the clause prescriptions at FAR 28.102–3, and includes additional information in the clause at FAR 52.228–15, Performance and Payment Bonds—Construction, providing notice of limitations on subcontractor waiver of protection (40 U.S.C. 270b(c)).

This is not a significant regulatory action and, therefore, was not subject to review under Section 6(b) of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, applies to this final rule. The Councils prepared a Final Regulatory Flexibility Analysis (FRFA) consistent with 5 U.S.C. 604. Interested parties may obtain a copy of the FRFA from the FAR Secretariat. The FRFA is summarized as follows:

The primary objective of this rule is to enhance payment protection for subcontractors that furnish labor or materials on Government construction contracts. There were no issues raised by the public in response to the Initial Regulatory Flexibility Analysis. The rule will require all contractors to which the Government awards construction contracts exceeding $25,000 to obtain a payment bond equal to the contract price, unless the contracting officer determines that to be impractical or unnecessary. The rule is expected to benefit subcontractors seeking payment, without resulting in substantial price increases for the prime contractor obtaining the increased payment protection. We estimate that the Executive branch of the Government annually awards 54,000 construction contracts exceeding $25,000, of which half (27,000 contracts) are awarded to approximately 7,500 small business firms. We estimate that approximately 60,000 small business subcontractors could benefit from increased payment protection.

The FAR Secretariat has submitted a copy of the FRFA to the Chief Counsel for Advocacy of the Small Business Administration.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FAR do not impose information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Parts 28 and 52

Government procurement.

Dated: July 19, 2000.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

Therefore, DoD, GSA, and NASA amend 48 CFR parts 28 and 52 as set forth below:

1. The authority citation for 48 CFR parts 28 and 52 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

PART 28—BONDS AND INSURANCE

28.101–2 [Amended]

2. Amend section 28.101–2 in the first sentence of paragraph (b) by removing ''(see 28.102–2(c))'' and adding in its place ''(see 28.102–2(a))''.

3. Revise section 28.102–2 to read as follows:

28.102–2 Amount required.

(a) *Definition.* As used in this subsection—

Original contract price means the award price of the contract; or, for requirements contracts, the price payable for the estimated total quantity; or, for indefinite-quantity contracts, the price payable for the specified minimum quantity. Original contract price does not include the price of any options, except those options exercised at the time of contract award.

(b) Contracts exceeding $100,000 (Miller Act).

(1) *Performance bonds.* Unless the contracting officer determines that a lesser amount is adequate for the protection of the Government, the penal amount of performance bonds must equal—

(i) 100 percent of the original contract price; and

(ii) If the contract price increases, an additional amount equal to 100 percent of the increase.

(2) *Payment bonds.* (i) Unless the contracting officer makes a written determination supported by specific findings that a payment bond in this amount is impractical, the amount of the payment bond must equal—

(A) 100 percent of the original contract price; and

(B) If the contract price increases, an additional amount equal to 100 percent of the increase.

(ii) The amount of the payment bond must be no less than the amount of the performance bond.

(c) *Contracts exceeding $25,000 but not exceeding $100,000.* Unless the contracting officer determines that a lesser amount is adequate for the protection of the Government, the penal amount of the payment bond or the amount of alternative payment protection must equal—

(1) 100 percent of the original contract price; and

(2) If the contract price increases, an additional amount equal to 100 percent of the increase.

(d) *Securing additional payment protection.* If the contract price increases, the Government must secure any needed additional protection by directing the contractor to—

(1) Increase the penal sum of the existing bond;

(2) Obtain an additional bond; or

(3) Furnish additional alternative payment protection.

(e) *Reducing amounts.* The contracting officer may reduce the amount of security to support a bond, subject to the conditions of 28.203–5(c) or 28.204(b).

4. In section 28.102–3, revise the section heading and paragraph (a); and add a sentence to the end of paragraph (b) to read as follows:

28.102–3 Contract clauses.

(a) Insert a clause substantially the same as the clause at 52.228–15, Performance and Payment Bonds—Construction, in solicitations and contracts for construction that contain a requirement for performance and

payment bonds if the resultant contract is expected to exceed $100,000. The contracting officer may revise paragraphs (b)(1) and/or (b)(2) of the clause to establish a lower percentage in accordance with 28.102–2(b). If the provision at 52.228–1 is not included in the solicitation, the contracting officer must set a period of time for return of executed bonds.

(b) * * * The contracting officer may revise paragraph (b) of the clause to establish a lower percentage in accordance with 28.102–2(c).

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

52.228–13 [Amended]

5. Amend section 52.228–13 by revising the date of the clause to read ''(July 2000)''; and in paragraph (b) of the clause by removing ''50'' and adding ''100'' in its place.

6. Revise section 52.228–15 to read as follows:

52.228–15 Performance and Payment Bonds—Construction.

As prescribed in 28.102–3(a), insert a clause substantially as follows:

Performance and Payment Bonds—Construction (July 2000)

(a) *Definitions.* As used in this clause—

Original contract price means the award price of the contract; or, for requirements contracts, the price payable for the estimated total quantity; or, for indefinite-quantity contracts, the price payable for the specified minimum quantity. Original contract price does not include the price of any options, except those options exercised at the time of contract award.

(b) *Amount of required bonds.* Unless the resulting contract price is $100,000 or less, the successful offeror shall furnish performance and payment bonds to the Contracting Officer as follows:

(1) *Performance bonds (Standard Form 25).* The penal amount of performance bonds at the time of contract award shall be 100 percent of the original contract price.

(2) *Payment Bonds (Standard Form 25–A).* The penal amount of payment bonds at the time of contract award shall be 100 percent of the original contract price.

(3) *Additional bond protection.* (i) The Government may require additional performance and payment bond protection if the contract price is increased. The increase in protection generally will equal 100 percent of the increase in contract price.

(ii) The Government may secure the additional protection by directing the Contractor to increase the penal amount of the existing bond or to obtain an additional bond.

(c) *Furnishing executed bonds.* The Contractor shall furnish all executed bonds, including any necessary reinsurance agreements, to the Contracting Officer, within the time period specified in the Bid Guarantee provision of the solicitation, or otherwise specified by the Contracting Officer, but in any event, before starting work.

(d) *Surety or other security for bonds.* The bonds shall be in the form of firm commitment, supported by corporate sureties whose names appear on the list contained in Treasury Department Circular 570, individual sureties, or by other acceptable security such as postal money order, certified check, cashier's check, irrevocable letter of credit, or, in accordance with Treasury Department regulations, certain bonds or notes of the United States. Treasury Circular 570 is published in the **Federal Register** or may be obtained from the U.S. Department of Treasury, Financial Management Service, Surety Bond Branch, 401 14th Street, NW, 2nd Floor, West Wing, Washington, DC 20227.

(e) *Notice of subcontractor waiver of protection (40 U.S.C. 270b(c).* Any waiver of the right to sue on the payment bond is void unless it is in writing, signed by the person whose right is waived, and executed after such person has first furnished labor or material for use in the performance of the contract.

(End of clause)

7. In section 52.228–16, revise the date of the clause and paragraph (a); in paragraph (b) add ''original'' before the word ''contract'', twice; and revise paragraph (d) and Alternate I to read as follows:

52.228–16 Performance and Payment Bonds—Other Than Construction.

* * * * *

Performance and Payment—Bonds Other Than Construction (July 2000)

(a) *Definitions.* As used in this clause—

Original contract price means the award price of the contract or, for requirements contracts, the price payable for the estimated quantity; or, for indefinite-quantity contracts, the price payable for the specified minimum quantity. Original contract price does not include the price of any options, except those options exercised at the time of contract award.

* * * * *

(d) The Government may require additional performance and payment bond protection if the contract price is increased. The Government may secure the additional protection by directing the Contractor to increase the penal amount of the existing bonds or to obtain additional bonds.

* * * * *

(End of clause)

Alternate I (July 2000). As prescribed in 28.103–4, substitute the following paragraphs (b) and (d) for paragraphs (b) and (d) of the basic clause:

(b) The Contractor shall furnish a performance bond (Standard Form 1418) for the protection to the Government in an amount equal to ☐☐ percent of the original contract price.

(d) The Government may require additional performance bond protection if the contract price is increased. The Government may secure the additional protection by directing the Contractor to increase the penal amount of the existing bond or to obtain an additional bond.

[FR Doc. 00–18673 Filed 7–25–00; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 31

[FAC 97–19; FAR Case 1999–013; Item VII]

RIN 9000–AI62

Federal Acquisition Regulation; Deferred Research and Development (R&D) Costs

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) have agreed on a final rule amending the Federal Acquisition Regulation (FAR) to clarify and simplify the ''Deferred research and development costs'' cost principle.

DATES: *Effective Date:* September 25, 2000.

FOR FURTHER INFORMATION CONTACT: The FAR Secretariat, Room 4035, GS Building, Washington, DC, 20405, (202) 501–4755, for information pertaining to status or publication schedules. For clarification of content, contact Ms. Linda Nelson, Procurement Analyst, at (202) 501–1900. Please cite FAC 97–19, FAR case 1999–013.

SUPPLEMENTARY INFORMATION:

A. Background

DoD, GSA, and NASA published a proposed rule in the **Federal Register** at 65 FR 4328, January 26, 2000. The proposed rule clarified and simplified the cost principle at FAR 31.205–48, Deferred research and development costs, by—

- Deleting the second sentence addressing precontract costs, as these types of costs are adequately addressed at FAR 31.205–32, Precontract costs;
- Revising the last sentence to more clearly indicate that incurred costs in excess of the contract price or grant amount for research and development (R&D) effort are unallowable and

accordingly, not reimbursable by the Government; and

• Making several editorial changes.

Three respondents submitted public comments to the proposed rule. The Councils considered all comments before agreeing to convert the proposed rule to a final rule without change.

This is not a significant regulatory action and, therefore, was not subject to review under Section 6(b) of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

B. Regulatory Flexibility Act

The Department of Defense, the General Services Administration, and the National Aeronautics and Space Administration certify that this final rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because most contracts awarded to small entities use simplified acquisition procedures or are awarded on a competitive, fixed-price basis, and do not require application of the cost principle contained in this rule.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FAR do not impose information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Part 31

Government procurement.

Dated: July 19, 2000.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

Therefore, DoD, GSA, and NASA amend 48 CFR part 31 as set forth below:

PART 31—CONTRACT COST PRINCIPLES AND PROCEDURES

1. The authority citation for 48 CFR part 31 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

2. Revise section 31.205–48 to read as follows:

31.205–48 Deferred research and development costs.

Research and development, as used in this section, means the type of technical effort described in 31.205–18 but sponsored by a grant or required in the performance of a contract. When costs are incurred in excess of either the price of a contract or amount of a grant for research and development effort, the excess is unallowable under any other Government contract.

[FR Doc. 00–18674 Filed 7–25–00; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 43 and 52

[FAC 97–19; FAR Case 1999–606; Item VIII]

RIN 9000–AI65

Federal Acquisition Regulation; Time-and-Materials or Labor-Hours

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) have agreed on a final rule amending the Federal Acquisition Regulation (FAR) to clarify the requirements regarding changes to time-and-materials and labor-hour contracts.

DATES: *Effective Date:* September 25, 2000.

FOR FURTHER INFORMATION CONTACT: The FAR Secretariat, Room 4035, GS Building, Washington, DC, 20405, (202) 501–4755, for information pertaining to status or publication schedules. For clarification of content, contact Ms. Linda Klein, Procurement Analyst, at (202) 501–3775. Please cite FAC 97–19, FAR case 1999–606.

SUPPLEMENTARY INFORMATION:

A. Background

This final rule clarifies the requirements regarding changes to time-and-materials and labor-hour contracts. The rule changes the clause at FAR 52.243–3, Changes—Time-and-Materials or Labor-Hours, to be consistent with Alternate II of the clause at FAR 52.243–1, Changes—Fixed-Price. Alternate II is used in service contracts and most of the work performed under time-and-materials or labor-hour contracts also involves services.

DoD, GSA, and NASA published a proposed rule in the **Federal Register** at 65 FR 3762, January 24, 2000. One respondent submitted comments on the proposed rule. The comments were considered in the development of the final rule.

This is not a significant regulatory action and, therefore, was not subject to review under Section 6(b) of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

B. Regulatory Flexibility Act

The Department of Defense, the General Services Administration, and the National Aeronautics and Space Administration certify that this final rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because contractors are entitled to an equitable adjustment to contract terms and conditions if a change order is issued under the Changes clause of the contract.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FAR do not impose information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Parts 43 and 52

Government procurement.

Dated: July 19, 2000.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

Therefore, DoD, GSA, and NASA amend 48 CFR parts 43 and 52 as set forth below:

1. The authority citation for 48 CFR parts 43 and 52 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

PART 43—CONTRACT MODIFICATIONS

2. Amend section 43.205 by revising paragraph (c) to read as follows:

43.205 Contract clauses.

* * * * *

(c) Insert the clause at 52.243–3, Changes—Time-and-Materials or Labor-Hours, in solicitations and contracts when a time-and-materials or labor-hour contract is contemplated. The contracting officer may vary the 30-day period in paragraph (c) of the clause according to agency procedures.

* * * * *

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

3. Revise section 52.243–3 to read as follows:

52.243–3 Changes—Time-and-Materials or Labor-Hours.

As prescribed in 43.205(c), insert the following clause:

Changes—Time-and-Materials or Labor-Hours (Sept 2000)

(a) The Contracting Officer may at any time, by written order, and without notice to the sureties, if any, make changes within the general scope of this contract in any one or more of the following:

(1) Description of services to be performed.

(2) Time of performance (*i.e.*, hours of the day, days of the week, etc.).

(3) Place of performance of the services.

(4) Drawings, designs, or specifications when the supplies to be furnished are to be specially manufactured for the Government in accordance with the drawings, designs, or specifications.

(5) Method of shipment or packing of supplies.

(6) Place of delivery.

(7) Amount of Government-furnished property.

(b) If any change causes an increase or decrease in any hourly rate, the ceiling price, or the time required for performance of any part of the work under this contract, whether or not changed by the order, or otherwise affects any other terms and conditions of this contract, the Contracting Officer will make an equitable adjustment in any one or more of the following and will modify the contract accordingly:

(1) Ceiling price.

(2) Hourly rates.

(3) Delivery schedule.

(4) Other affected terms.

(c) The Contractor shall assert its right to an adjustment under this clause within 30 days from the date of receipt of the written order. However, if the Contracting Officer decides that the facts justify it, the Contracting Officer may receive and act upon a proposal submitted before final payment of the contract.

(d) Failure to agree to any adjustment will be a dispute under the Disputes clause. However, nothing in this clause excuses the Contractor from proceeding with the contract as changed.

(End of clause)

[FR Doc. 00–18675 Filed 7–25–00; 8:45 am]

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DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 50

[FAC 97–19; FAR Case 2000–006; Item IX]

RIN 9000–AI85

Federal Acquisition Regulation; Repeal of Reporting Requirements under Public Law 85–804

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) have agreed on a final rule to amend the Federal Acquisition Regulation (FAR) to implement paragraph 901(r)(1) of the Federal Reports Elimination Act of 1998 (Pub. L. 105–362), that repealed section 4 of Public Law 85–804 (50 U.S.C. 1434). Section 4 required each department and agency to report annually to Congress any contract action in excess of $50,000 issued under the authority of this law.

DATES: *Effective Date:* September 25, 2000.

FOR FURTHER INFORMATION CONTACT: The FAR Secretariat, Room 4035, GS Building, Washington, DC, 20405, (202) 501–4755, for information pertaining to status or publication schedules. For clarification of content, contact Ms. Linda Klein, Procurement Analyst, at (202) 501–3775. Please cite FAC 97–19, FAR case 2000–006.

SUPPLEMENTARY INFORMATION:

A. Background

The final rule revises FAR 50.000 to update the reference to Public Law 85–804 and eliminates the reporting requirements at FAR 50.104. Agencies are no longer required to submit to Congress annually a report of actions taken on requests for relief under the authority of Public Law 85–804.

This is not a significant regulatory action and, therefore, was not subject to review under Section 6(b) of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

B. Regulatory Flexibility Act

The final rule does not constitute a significant FAR revision within the meaning of FAR 1.501 and Pub. L. 98–577, and publication for public comments is not required. However, the Councils will consider comments from small entities concerning the affected FAR Part 50 in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C. 601, *et seq.* (FAC 97–19, FAR case 2000–006), in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FAR do not impose information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Part 50

Government procurement.

Dated: July 19, 2000.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

Therefore, DoD, GSA, and NASA amend 48 CFR part 50 as set forth below:

PART 50—EXTRAORDINARY CONTRACTUAL ACTIONS

1. The authority citation for 48 CFR part 50 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

2. Revise section 50.000 to read as follows:

50.000 Scope of part.

This part prescribes policies and procedures for entering into, amending, or modifying contracts in order to facilitate the national defense under the extraordinary emergency authority granted by Public Law 85–804 (50 U.S.C. 1431–1434), referred to in this part as the ''Act'', and Executive Order 10789, dated November 14, 1958, referred to in this part as ''the Executive order'', It does not cover advance payments (see subpart 32.4).

50.104 [Removed and Reserved]

3. Remove and reserve section 50.104.

[FR Doc. 00–18676 Filed 7–25–00; 8:45 am]

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DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 4 and 22

[FAC 97–19; Item X]

Federal Acquisition Regulation; Technical Amendments

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Technical amendments.

SUMMARY: This document makes amendments to the Federal Acquisition Regulation in order to update references and make editorial changes.

EFFECTIVE DATE: July 26, 2000.

FOR FURTHER INFORMATION CONTACT: The FAR Secretariat, Room 4035, GS Building, Washington, DC 20405, (202) 501–4755.

List of Subjects in 48 CFR Parts 4 and 22

Government procurement.

Dated: July 19, 2000.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

Therefore, DoD, GSA, and NASA amend 48 CFR parts 4 and 22:

1. The authority citation for 48 CFR parts 4 and 22 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

PART 4—ADMINISTRATIVE MATTERS

4.803 [Amended]

2. Amend section 4.803 in paragraph (a)(35) by removing the second sentence.

PART 22—APPLICATION OF LABOR LAWS TO GOVERNMENT ACQUISITIONS

3. Amend the parenthetical in section 22.400 by removing ''Construction'' and adding ''Construction, alteration, or repair'' in its place.

[FR Doc. 00–18677 Filed 7–25–00; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Chapter 1

Federal Acquisition Regulation; Small Entity Compliance Guide

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Small Entity Compliance Guide.

SUMMARY: This document is issued under the joint authority of the Secretary of Defense, the Administrator of General Services, and the Administrator for the National Aeronautics and Space Administration. This *Small Entity Compliance Guide* has been prepared in accordance with Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121). It consists of a summary of rules appearing in Federal Acquisition Circular (FAC) 97–19 which amend the FAR. An asterisk (*) next to a rule indicates that a regulatory flexibility analysis has been prepared in accordance with 5 U.S.C. 604. Interested parties may obtain further information regarding these rules by referring to FAC 97–19 which precedes this document. These documents are also available via the Internet at http://www.arnet.gov/far.

FOR FURTHER INFORMATION CONTACT: Laurie Duarte, FAR Secretariat, (202) 501–4225. For clarification of content, contact the analyst whose name appears in the table below.

LIST OF RULES IN FAC 97–19

Item	Subject	FAR case	Analyst
I	Contract Bundling*	1997–306 (97–306)	De Stefano
II	North American Industry Classification System (NAICS) (Interim)	2000–604	Moss
III	Liquidated Damages	1999–003	Moss
IV	Service Contract Act, Commercial Item Subcontracts	1998–605	Klein
V	Small Business Competitiveness Demonstration Program	1999–012	Moss
VI	Construction Industry Payment Protection Act of 1999*	1999–302	De Stefano
VII	Deferred Research and Development (R&D) Costs 1999–013 Nelson.		
VIII ...	Time-and-Materials or Labor Hours	1999–606	Klein
IX	Repeal of Reporting Requirements under Public Law 85–804	2000–006	Klein

Item I—Contract Bundling (FAR Case 1997–306 (97–306))

This final rule converts the interim rule published as Item III of FAC 97–15 to a final rule with minor changes. The rule amends the FAR to implement Sections 411–417 of the Small Business Reauthorization Act of 1997. Sections 411–417 amend Title 15 of the United States Code to define ''contract bundling,'' and to require agencies to avoid unnecessary bundling that precludes small business participation in the performance of Federal contracts.

This rule affects all contracting officers that may combine requirements that were previously awarded to a small business or requirements for which a small business could have competed. In accordance with the statute and Small Business Administration regulations, agencies must establish procedures for processing bundled requirements to ensure maximum small business participation in bundled acquisitions. Specifically, agencies and contracting officers must—

- Perform market research when bundled requirements are anticipated;
- Justify bundling in acquisition strategies;
- Meet specific estimated benefit thresholds before bundling requirements;
- Assess the impact of bundling on small businesses;
- Submit solicitations containing bundled requirements to the Small Business Administration (SBA)

procurement center representatives for review; and

• Include, in negotiated competitions for bundled requirements, a source selection factor for the offerors' proposed use of small businesses as subcontractors and their past performance in meeting subcontracting goals.

Item II—North American Industry Classification System (NAICS) (FAR Case 2000–604)

This interim rule revises the FAR to convert size standards and other programs in the FAR that are currently based on the Standard Industrial Classification (SIC) system to the North American Industry Classification System (NAICS). NAICS is a new system that classifies establishments according to how they conduct their economic activity. It is a significant improvement over the SIC because it more accurately identifies industries. Beginning October 1, 2000, NAICS will be used to establish the size standards for acquisitions. In addition, the interim rule converts the designated industry groups in FAR 19.1005 to NAICS and requires agencies to report contract actions using the NAICS code rather than the SIC code.

Item III—Liquidated Damages (FAR Case 1999–003)

This final rule clarifies coverage on liquidated damages. This rule will make it easier for contracting officers to understand the policy for administering liquidated damages.

The only substantive change is at FAR 11.501(d). The authority to approve reductions in or waivers to liquidated damages was changed from the Comptroller General to the Commissioner, Financial Management Service.

Item IV—Service Contract Act, Commercial Item Subcontracts (FAR Case 1998–605)

This final rule deletes the Service Contract Act of 1965 from the list of laws inapplicable to subcontracts for commercial items. FAR 12.504(a) contains this list.

Item V—Small Business Competitiveness Demonstration Program (FAR Case 1999–012)

This final rule converts the interim rule published as Item I of FAC 97–16 to a final rule without change.

The rule amends FAR Part 19 to clarify language pertaining to the Competitiveness Demonstration Program, consistent with revisions to the Program that were required by the OFPP and SBA joint final policy directive dated May 25, 1999. The rule revises FAR Subpart 19.10 to—

1. Advise the contracting officer to consider the 8(a) Program and HUBZone Program when there is not a reasonable expectation that offers will be received from two or more emerging small businesses; and

2. Add a new section 19.1006, Exclusions, to reflect the exclusions of orders under the Federal Supply Schedule Program and contract awards to educational and nonprofit institutions or governmental entities.

Item VI—Construction Industry Payment Protection Act of 1999 (FAR Case 1999–302)

This final rule amends FAR 28.102–2 and the clauses at 52.228–13, 52.228–15, and 52.228–16 to implement the Construction Industry Payment Protection (CIPP) Act of 1999. The CIPP Act amends the Miller Act to provide that the amount of a payment bond must equal the total amount payable by the terms of the contract, unless the contracting officer determines that a payment bond in that amount is impractical. The final rule also provides enhanced payment protection for Government contracts not subject to the Miller Act. The contracting officer must determine the appropriate amount of payment protection in each construction contract that exceeds $25,000, and in any other contract that requires a performance bond in accordance with FAR 28.103–2.

Item VII—Deferred Research and Development (R&D) Costs (FAR Case 1999–013)

This final rule amends the FAR by clarifying and simplifying the ''deferred research and development costs'' cost principle at FAR 31.205–48. The rule will only affect contracting officers that price contracts using cost analysis, or that are required by a contract clause to use cost principles for the determination, negotiation, or allowance of contractor costs.

Item VIII—Time-and-Materials or Labor Hours (FAR Case 1999–606)

This final rule clarifies the requirements regarding changes to time-and-materials and labor-hour contracts. The rule changes the clause at FAR 52.243–3, Changes—Time-and-Materials or Labor-Hours, to be consistent with Alternate II of the clause at FAR 52.243–1, Changes—Fixed-Price. Alternate II is used in service contracts and most of the work performed under time-and-materials or labor-hour contracts also involves services.

Item IX—Repeal of Reporting Requirements under Public Law 85–804 (FAR Case 2000–006)

This final rule amends the FAR to implement paragraph 901(r)(1) of the Federal Reports Elimination Act of 1998 (Pub. L. 105–362). Paragraph 901(r)(1) repealed section 4 of Public Law 85–804 (50 U.S.C. 1434). Section 4 required each department and agency to report annually to Congress any contract action in excess of $50,000 issued under the authority of this law. The rule revises FAR 50.000 to update the reference to Public Law 85–804 and eliminates the reporting requirements at FAR Part 50.104. Agencies are no longer required to submit to Congress annually a report of actions taken on requests for relief under the authority of Public Law 85–804.

Dated: July 19, 2000.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

[FR Doc. 00–18678 Filed 7–25–00; 8:45 am]

BILLING CODE 6820–EP–P

Federal Register

Wednesday,
July 26, 2000

Part III

Department of Labor

Occupational Safety and Health Administration

Southwest Research Institute, Application for Expansion of Recognition; Notice

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. NRTL–3–90]

Southwest Research Institute, Application for Expansion of Recognition

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice.

SUMMARY: This notice announces the application of Southwest Research Institute (SwRI), under 29 CFR 1910.7, for expansion of its recognition as a Nationally Recognized Testing Laboratory (NRTL) under 29 CFR 1910.7, and presents the Agency's preliminary finding. This preliminary finding does not constitute an interim or temporary approval of this application.

DATES: Comments submitted by interested parties must be received no later than September 25, 2000.

ADDRESSES: Submit written comments concerning this notice to: Docket Office, Docket NRTL–3–90, U.S. Department of Labor, Occupational Safety and Health Administration, Room N2625, 200 Constitution Avenue, N.W., Washington, D.C. 20210; telephone: (202) 693–2350. Commenters may transmit written comments of 10 pages or less in length by facsimile to (202) 693–1648.

FOR FURTHER INFORMATION CONTACT: Bernard Pasquet, Office of Technical Programs and Coordination Activities, NRTL Program at the above address, or phone (202) 693–2110.

SUPPLEMENTARY INFORMATION:

Notice of Application

The Occupational Safety and Health Administration (OSHA) hereby gives notice that Southwest Research Institute (SwRI) has applied for expansion of its current recognition as a Nationally Recognized Testing Laboratory (NRTL). SwRI's expansion request covers the use of an additional test standard.

OSHA recognition of an NRTL signifies that the organization has met the legal requirements in Section 1910.7 of Title 29, Code of Federal Regulations (29 CFR 1910.7). Recognition is an acknowledgment that the organization can perform independent safety testing and certification of the specific products covered within its scope of recognition and is not a delegation or grant of government authority. As a result of recognition, OSHA can accept products ''properly certified'' by the NRTL. OSHA processes applications related to an NRTL's recognition following requirements in Appendix A to 29 CFR 1910.7. This appendix requires that the Agency publish this public notice of the preliminary finding on an application.

When first recognized, OSHA identified the Department of Fire Technology as the SwRI unit to which the recognition would apply. OSHA would no longer identify solely this department for purposes of recognition since other organizational units of SwRI would participate in its NRTL-related activities.

The most recent notices published by OSHA for the SwRI recognition covered the NRTL's renewal and expansion of recognition, which the Agency announced on November 10, 1998 (63 FR 63086) and granted on March 9, 1999 (64 FR 11503).

The current address of the SwRI facility (site) that OSHA recognizes for SwRI is: Southwest Research Institute, Department of Fire Technology, 6620 Culebra Road, Post Office Drawer 28510, San Antonio, Texas 78228.

General Background on the Application

SwRI has submitted a request, dated April 5, 2000 (see Exhibit 10), to expand its recognition as an NRTL for one additional test standard. The NRTL included adequate information in support of its request. In its cover letter, SwRI stated that its Electromagnetic Compatibility (EMCR) Section and its Environmental Testing Section would participate in testing products to the requested test standard.

SwRI seeks recognition for testing and certification of products to demonstrate compliance to the following test standard: UL 1950 Technology Equipment Including Electrical Business Equipment. OSHA has determined that the standard is appropriate within the meaning of 29 CFR 1910.7(c). The staff makes such determinations in processing expansion requests from any NRTL.

OSHA's recognition of any NRTL for a particular test standard is limited to equipment or materials (*i.e.,* products) for which OSHA standards require third party testing and certification before use in the workplace. As a result, the Agency's recognition of an NRTL for a test standard excludes any product(s), falling within the scope of the test standard, for which OSHA has no such requirements.

The above listed test standard is approved as an American National Standard by the American National Standards Institute (ANSI). However, for convenience in processing applications, we use the designation of the standard developing organization (*e.g.,* UL 1950) for the standard, as opposed to the ANSI designation (*e.g.,* ANSI/UL 1950). Under our procedures, an NRTL that is approved for a particular test standard may use either the latest proprietary version of the test standard or the latest ANSI version of that standard, regardless of whether it is currently recognized for the proprietary or ANSI version. Contact ANSI or visit the ANSI web site to find out whether or not a standard is currently ANSI approved.

Preliminary Finding on the Application

SwRI has submitted an acceptable request for expansion of its recognition as an NRTL. In processing this request, OSHA performed an on-site evaluation of SwRI's NRTL testing and certification facilities. In a memo dated June 12, 2000 (see Exhibit 11), NRTL Program assessment staff recommended the expansion of SwRI's recognition to include the additional test standard listed above.

Following a review of the application file, the assessor's recommendation, and other pertinent documents, the NRTL Program staff has concluded that OSHA can grant to SwRI the expansion of recognition to use the additional test standard. The staff therefore recommended to the Assistant Secretary that the application be preliminarily approved.

Based upon the recommendation of the staff, the Assistant Secretary has made a preliminary finding that Southwest Research Institute can meet the recognition requirements, as prescribed by 29 CFR 1910.7, for the expansion of recognition. This preliminary finding does not constitute an interim or temporary approval of the application.

OSHA welcomes public comments, in sufficient detail, as to whether SwRI has met the requirements of 29 CFR 1910.7 for the expansion of its recognition as a Nationally Recognized Testing Laboratory. Your comment should consist of pertinent written documents and exhibits. To consider it, OSHA must receive the comment at the address provided above (see **ADDRESSES**), no later than the last date for comments (see **DATES** above). You may obtain or review copies of the SwRI request, the memo on the recommendation, and all submitted comments, as received, by contacting the Docket Office, Room N2625, Occupational Safety and Health Administration, U.S. Department of Labor, at the above address. You should refer to Docket No. NRTL–3–90, the permanent record of public information on the SwRI recognition.

The NRTL Program staff will review all timely comments and, after

resolution of issues raised by these comments, will recommend whether to grant the SwRI expansion request. The Assistant Secretary will make the final decision on granting the expansion and, in making this decision, may undertake other proceedings prescribed in Appendix A to 29 CFR Section 1910.7. OSHA will publish a public notice of this final decision in the **Federal Register**.

Signed at Washington, D.C. this 18th day of July, 2000.

Charles N. Jeffress,

Assistant Secretary.

[FR Doc. 00–18866 Filed 7–25–00; 8:45 am]

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Federal Register

Wednesday,
July 26, 2000

Part IV

Department of Labor

Employment and Training Administration

20 CFR Part 656

Labor Certification Process for the Permanent Employment of Aliens in the United States; Refiling of Applications; Proposed Rule

DEPARTMENT OF LABOR

Employment and Training Administration

20 CFR Part 656

RIN 1205–AB25

Labor Certification Process for the Permanent Employment of Aliens in the United States; Refiling of Applications

AGENCY: Employment and Training Administration, Labor.

ACTION: Proposed rule; request for comments.

SUMMARY: The Employment and Training Administration (ETA) of the Department of Labor (Department or DOL) proposes to amend its regulations relating to the permanent employment of aliens in the United States. The proposed amendments would permit employers to request that any labor certification application for permanent employment filed on or before July 26, 2000, and which has not been sent to the regional certifying officer, be processed as a reduction in recruitment request, provided recruitment has not been conducted pursuant to the permanent labor certification regulations. ETA anticipates that the proposed amendment would reduce the backlog of labor certification applications for permanent employment in State Employment Security Agencies (SESA). This measure to reduce backlogs would result in a variety of desirable benefits, a reduction in processing time for both new applications and those applications currently in the queue, would facilitate the development and implementation of a new, more efficient system for processing labor certification applications for permanent employment in the United States, and would reduce government resources necessary to process applications for alien employment certification.

DATES: Interested persons are invited to submit written comments on the proposed rule on or before August 25, 2000.

ADDRESSES: Submit written comments to the Assistant Secretary for Employment and Training, U.S. Department of Labor, 200 Constitution Avenue, NW., Room N–4456, Washington, DC 20210, Attention: James H. Norris, Chief, Division of Foreign Labor Certifications.

FOR FURTHER INFORMATION CONTACT: Denis M. Gruskin, Senior Specialist, Division of Foreign Labor Certifications, Employment and Training Administration, 200 Constitution Avenue, NW., Room N–4456, Washington, DC 20210. Telephone: (202) 219–5263 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION:

A. Background

Backlogs of applications for permanent alien employment certification have been a growing problem in ETA regional and SESA offices. These increasing backlogs have resulted in an increase in the time it takes to obtain a determination on an application for permanent employment in the United States.

Recent measures to reduce backlogs in ETA's regional offices have met with considerable success. Consequently, ETA is now turning its attention to reducing the number of backlogged cases in SESA's. Instituting measures to reduce backlogs in SESA's without first reducing backlogs in regional offices would not have resulted in a reduction in mean processing time. Implementing measures to reduce backlogs in SESA's without first reducing backlogs in the regional offices, would have merely resulted in transferring the backlogged applications from the SESA's to ETA's regional offices.

B. Statutory Standard and Implementing Regulations

Before the Immigration and Naturalization Service (INS) may approve petition requests and the Department of State may issue visas and admit certain immigrant aliens to work permanently in the United States, the Secretary of Labor must first certify to the Secretary of State and to the Attorney General that:

(a) There are not sufficient United States workers, who are able, willing, qualified, and available at the time of the application for a visa and admission into the United States and at the place where the alien is to perform the work; and

(b) The employment of the alien will not adversely affect the wages and working conditions of similarly employed United States workers. [8 U.S.C. 1182(a)(5)(A)].

If the Secretary, through ETA, determines that there are no able, willing, qualified, and available U.S. workers and that employment of the alien will not adversely affect the wages and working conditions of similarly employed U.S. workers, DOL so certifies to the INS and to the Department of State, by issuing a permanent alien labor certification.

If DOL cannot make one or both of the above findings, the application for permanent alien employment certification is denied. DOL may be unable to make the two required findings for one or more reasons, including, but not limited to:

(a) The employer has not adequately recruited U.S. workers for the job offered to the alien, or has not followed the proper procedural steps in 20 CFR part 656.

(b) The employer has not met its burden of proof under section 291 of the Immigration and Nationality Act (INA or Act.) (8 U.S.C. 1361), that is, the employer has not submitted sufficient evidence of its attempts to obtain available U.S. workers, and/or the employer has not submitted sufficient evidence that the wages and working conditions which the employer is offering will not adversely affect the wages and working conditions of similarly employed U.S. workers.

C. Department of Labor Regulations

The Department of Labor has promulgated regulations, at 20 CFR part 656, governing the labor certification process described above for the permanent employment of immigrant aliens in the United States. Part 656 was promulgated pursuant to section 212(a)(14) of the INA (now at section 212(a)(5)(A)). 8 U.S.C. 1182(a)(5)(A).

The regulations at 20 CFR part 656 set forth the factfinding process designed to develop information sufficient to support the granting of a permanent labor certification. These regulations describe the nationwide system of public employment service offices available to assist employers in finding available U.S. workers and how the factfinding process is utilized by DOL as the basis of information for the certification determination. See also 20 CFR parts 651 through 658, and the Wagner-Peyser Act (29 U.S.C. Chapter 4B).

Part 656 also sets forth the responsibilities of employers who desire to employ immigrant aliens permanently in the United States. Such employers are required to demonstrate that they have attempted to recruit U.S. workers through advertising, through the Federal-State Employment Service System, and by other specified means. The purpose is to assure that there is an adequate test of the availability of U.S. workers to perform the work, and to ensure that aliens are not employed under conditions that would adversely affect the wages and working conditions of similarly employed U.S. workers.

D. Backlogs

Since Fiscal Year (FY) 1995, backlogs of applications for permanent alien employment certification in ETA regional offices and SESA's have increased dramatically. Between October 1994 and October 1998, the total backlog in both regional and SESA offices increased from 40,000 to 104,000 applications for alien employment certification. Regional office backlogs alone increased from 10,000 to 30,000 cases over that period, while backlogs in the SESA offices increased from 30,000 to 74,000 cases. The number of backlogged cases in SESA's on March 31, 1999, stood at about 86,000 applications.

Early in calendar year 1999 ETA instituted a number of measures to reduce the backlog of applications for permanent alien employment certification that numbered over 38,000 cases in its regional offices. The most important of these measures put in place in February 1999, were:

- Implementation of a system nationally which allowed employers to transmit H–1B labor condition applications (LCA) electronically and to receive a certification decision on their applications by return fax. Implementation of this system allowed many of the regional staff that it had been necessary to assign to processing LCA's in order to ensure compliance with the statutory 7-day H–1B processing requirement, to be reassigned to processing permanent cases.
- Implementation of a special priority backlog reduction effort by providing $500,000 for overtime and hiring temporary staff. These additional funds allowed experienced analysts to concentrate on processing permanent cases.

The efforts to reduce backlogs in regional offices met with considerable success. As of late October 1999, the number of backlogged cases in ETA regional offices numbered 14,642. To accomplish this large reduction in backlogs, regional offices processed over 71,000 cases. In addition to processing backlogged applications, the regions had to keep abreast of the 47,800 new cases received from the SESA's between the beginning of February and late October 1999.

E. Reduction in Recruitment (RIR) Requests

On October 1, 1996, because of the increasing workloads, ETA issued General Administrative Letter No. 1–97, *Measures for Increasing Efficiency in the Permanent Labor Certification Process* (GAL 1–97). The GAL instituted a number of measures to increase efficiency which were achievable under current regulations. One of the measures to increase efficiency was to encourage employers to file requests for reduction in recruitment under § 656.21(i) of the permanent labor certification regulations. Requests for reduction in recruitment are given expedited processing at ETA's regional offices, if they contain no deficiencies. The reduction in recruitment provision allows certifying officers to reduce partially or completely the employer's recruitment efforts through the State Employment Security Agencies, for example, by decreasing partially or completely the number of days which the job order and/or ad must be run. The notice requirement at § 656.20(g)(1)(i) and (5) can be reduced partially, but it cannot be eliminated, since it is based on a statutory requirement. See Immigration Act of 1990, Public Law 101–649, sec. 122(b) (Nov. 29 1990).

The reduction in recruitment provision may be utilized by certifying officers when the labor market has been adequately tested within 6 months prior to the filing of the application and there is no expectation that full or partial compliance with the prescribed recruitment measures will produce qualified and willing applicants.

The emphasis on the use of the reduction in recruitment regulation by GAL 1–97 in appropriate cases has worked well and has contributed significantly to ETA being able to manage its increasing case load with limited staff resources. Backlogs in both the regional offices and SESA's would undoubtedly be substantially larger if the use of the RIR provisions in the regulations had not been encouraged by GAL 1–97.

ETA has concluded that backlogs in SESA's could be substantially reduced if employers are allowed to have applications that were not originally filed as RIR cases and which meet the appropriate criteria removed from the SESA's processing queues and processed as reduction in recruitment cases. Furthermore, reducing or eliminating the backlogs would facilitate the development and implementation of a new permanent employment certification system that ETA has been developing.

The proposed amendment to the RIR regulation at 20 CFR 656.21(i) would allow an employer to file a request to have an application filed on or before July 26, 2000, which has not been sent to the regional office, processed as a RIR request under § 656.21(i), provided that recruitment has not been conducted pursuant to §§ 656.21(f) and/or (g). Since the RIR procedure is designed to expedite processing by permitting employers to substitute recruiting conducted prior to filing the application for the recruitment required by § 656.21, it would be incongruous to entertain an RIR request from an employer who had already engaged in the mandated recruiting. Those applications should be approved or denied based on that recruitment.

The proposed regulation provides that the option to have a permanent labor certification application processed as an RIR request would apply only to cases that were filed on or before July 26, 2000. ETA's operating experience indicates that without such a limitation employers may be motivated to file large numbers of cases, many of which may be inadequately prepared, simply to obtain a filing date [1] and then convert such cases to reduction in recruitment requests. Providing sufficient lead time to employers that may file large numbers of cases that could subsequently be converted to RIR cases would undermine the purpose of the proposed rule which is to reduce backlogs of existing cases and to facilitate the orderly implementation of a new streamlined labor certification system.

Before the issuance of GAL 1–97, cited above, on October 1, 1996, the RIR provisions at § 656.21(i) were not fully utilized for a variety of reasons. The issuance of GAL 1–97 instituted a uniform policy that RIR requests were to be viewed favorably, set forth operating guidelines that were to be followed by all regional offices, and clarified ETA policy regarding the priority to be given RIR requests. Between the issuance of GAL 1–97 in October 1996, and the publication of this document in the **Federal Register** employers have had ample encouragement and opportunity to file RIR requests.

The proposed regulation also provides that for the request to have a previously filed application processed as an RIR request it must be accompanied by documentary evidence of good faith recruitment conducted within the 6 months immediately preceding the date of the request. This provision will allow expeditious processing of previously filed applications as RIR requests upon receipt of the employer's request.

[1] The filing date is important to employers because, according to INS regulations, ''[t]he priority date of any petition for classification under section 203(b) of the Act which is accompanied by an individual labor certification from the Department of Labor shall be the date the request for certification was accepted for processing by any office within the employment service system.'' See 8 CFR 204.5(d).

The proposed regulation does not specifically address the ability of an employer to amend its application at the time the employer makes a request to have a previously filed application processed as a RIR request. The Department believes that the current administrative practices that have been developed to handle requests to amend labor certifications after filing are sufficient. Interested parties, however, are invited to submit comments on this issue and the Department will consider those and any other comments in the development of the final rule.

Executive Order 12866

The Department has determined that this proposed rule is not an ''economically significant regulatory action'' within the meaning of Executive Order 12866, in that it will not have an economic effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities.

While it is not economically significant, the Office of Management and Budget reviewed the proposed rule because of the novel legal and policy issues raised by this rulemaking.

Regulatory Flexibility Act

The proposed rule would only affect those employers seeking immigrant workers for permanent employment in the United States. The Department of Labor has notified the Chief Counsel for Advocacy, Small Business Administration, and made the certification pursuant to the Regulatory Flexibility Act at 5 U.S.C. 605(b), that the proposed rule will not have a significant economic impact on a substantial number of small entities.

Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by State, local and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any 1 year, and it will not significantly or uniquely affect small governments. Therefore, no actions are deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined by section 804 of the Small Business Regulatory Enforcement Act of 1996. It will not result in an annual effect on the economy of $100 million or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

Executive Order 13132

This proposed rule will not have a substantial direct effect on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 13132, it is determined that this rule does not have sufficient federalism implications to warrant the preparation of a summary impact statement.

Assessment of Federal Regulations and Policies on Families

The proposed regulation does not affect family well-being.

Paperwork Reduction Act

The proposed rule would not modify the existing collection of information requirements in 20 CFR 656.21.

Catalogue of Federal Domestic Assistance Number

This program is listed in the Catalogue of Federal Domestic Assistance at Number 17.203, ''Certification for Immigrant Workers.''

List of Subjects in 20 CFR Part 656

Administrative practice and procedure, Aliens, Crewmembers, Employment, Employment and training, Enforcement, Fraud, Guam, Immigration, Labor, Longshore work, Unemployment, Wages and working conditions.

Accordingly, Part 656 of Chapter V of Title 20 of the Code of Federal Regulations is proposed to be amended as follows:

PART 656—LABOR CERTIFICATION PROCESS FOR PERMANENT EMPLOYMENT OF ALIENS IN THE UNITED STATES

1. The authority citation for Part 656 is revised to read as follows:

Authority: 8 U.S.C. 1182(a)(5)(A) and 1182(p); 29 U.S.C. 49 *et seq.*; sec.122, Pub. L. 101–649, 109 Stat. 4978.

§ 656.21 [Amended]

2. Section 656.21 is amended by adding a new paragraph (i)(6), to read as follows:

§ 656.21 Basic labor certification process.

* * * * *

(i) * * *

(6) Notwithstanding the provisions of paragraph (i)(1)(i) of this section an employer may file a request with the SESA to have any application filed on or before July 26, 2000, and which has not been sent to the regional certifying officer, processed as a reduction in recruitment request under this paragraph (i), provided that recruitment has not been conducted pursuant to paragraph (f) and/or (g) of this section.

Signed at Washington, DC, this 19th day of July, 2000.

Raymond L. Bramucci,

Assistant Secretary of Labor for Employment and Training.

[FR Doc. 00–18865 Filed 7–25–00; 8:45 am]

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The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

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This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with ''P L U S'' (Public Laws Update Service) on 202–523–6641. This list is also available online at http://www.nara.gov/fedreg.

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available on the Internet from GPO Access at http://www.access.gpo.gov/nara/index.html. Some laws may not yet be available.

S. 148/P.L. 106–247
Neotropical Migratory Bird Conservation Act (July 20, 2000; 114 Stat. 593)
Last List July 12, 2000

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